Refugee Review Tribunal
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RRT RESEARCH RESPONSE

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Questions
1. Is homosexuality illegal in Jordan (both in relation to civil law and sharia law)?
2. Is there any evidence of discrimination and/or harassment of homosexuals in Jordanian society?
3. Is there adequate state protection available to homosexuals in Jordan?

RESPONSE

1. Is homosexuality illegal in Jordan (both in relation to civil law and sharia law)?

An RRT research response dated 10 June 2008 provides information from DFAT in relation to homosexuality in Jordan (RRT Research & Information 2008, *Research Response JOR33101*, 10 June – Attachment 1). The DFAT advice dated 29 May 2008 includes the following information on the legality of homosexuality in Jordan:

> Summary
>
> Homosexuality and homosexual acts are not illegal under the Jordanian penal code. While homosexual relations are forbidden under Islamic shariah law, under the Jordanian system there is no fine or other penalty for "crimes" under shariah law unless these are covered separately by Jordan's penal code. The social environment for homosexuals in Jordan is considered to be more tolerant than in many other parts of the Middle East. That said, it would be difficult to be openly homosexual in Jordan as social views on sexuality remain conservative even in cities such as Amman.
>
> 1. On 21 April, during a discussion with the President of the Jordanian Senate, HE Zaid Rifai, Speaker of the House of Representatives, HE Hadi Majali, and His Eminence Chief Justice and Imam of the Hashemite Court, Ahmed Helayel, HOM asked about the legality of homosexuality in Jordan. HOM was told that homosexuality and homosexual acts were not illegal under the Jordanian penal code. While homosexual relations were forbidden under

> Islamic shariah law, under the Jordanian system there was no fine or other penalty for "crimes" under shariah law unless these were covered separately by Jordan's penal code (another example being the consumption of alcohol, which, while prohibited under shariah law, was not illegal in Jordan) (Department of Foreign Affairs and Trade 2008, *DFAT Report No. 824 – Jordan: RRT Information Request: JOR33101*, 29 May – Attachment 2).

An earlier RRT research response dated 28 April 2004 also provides information from DFAT in relation to the legality of homosexuality in Jordan (RRT Country Research 2004, *Research Response JOR16610*, 28 April – Attachment 3). The DFAT advice dated 27 April 2004 includes the following information:

> START OF SUMMARY
>
> There are no laws in Jordan prohibiting the adult homosexual acts though social pressures and conservative Islamic attitudes in some areas of the country may attach varying degrees of stigma and harassment.
>
> END OF SUMMARY
>
> 1. In response to reftel, the Embassy has investigated the legal situation in Jordan regarding homosexual acts.
>
> 2. There are no laws in Jordan which punish individuals because they are homosexuals. The only way to prosecute a homosexual in Jordan would be if there were a compliant [sic] filed by another individual that the homosexual had sex with that person by force.
>
> 3. However the local age of consent for sexual acts also applies to homosexual acts. If a homosexual practises sex with an individual who is under the age of 18, he can be prosecuted under the Jordanian penal code (1960) if he is considered to have engaged in sexual activities with a minor. The punishment for such an acts [sic] could range from three to 15 years' imprisonment with temporary hard labour (Department of Foreign Affairs and Trade 2004, *DFAT Report No. 288 – Jordan: RRT Information Request: JOR16610*, 27 April – Attachment 4).

There are more recent documents that refer to homosexuality being illegal in Jordan. According to a Human Rights Watch report dated May 2009, "Egypt, Morocco, Algeria, Jordan, Lebanon, all criminalize homosexual sex under secular laws with fines and prison terms – laws that mostly have colonial origins." The Human Rights Watch report was "based on answers to questions Human Rights Watch asked (in surveys and in interviews) to 100 leading sexual rights activists from some 50 countries, all with long experience in the areas of sexual orientation and gender identity. We did not attempt quantitative analysis, since primarily we wanted to hear activists' own words: their own perspectives on the situations they face, and the strategies they are exploring to confront them" (Human Rights Watch 2009, *Together, Apart: Organizing around Sexual Orientation and Gender Identity Worldwide*, May, pp. 1 & 15 – Attachment 5).

An article dated 4 November 2008 indicates that "Jordanian law bans homosexuality and any man caught having sex with another man faces up to four years in jail. But rights activists say the law is rarely enforced these days" ('In Jordan, Eradicating "every trace of male homosexuals"' 2008, *Menassat*, 4 November – Attachment 6).

Another article dated 27 October 2008 on the *ANSAmed* press agency website also refers to Jordan's law banning "homosexuality and any man caught having sex with another man faces up to four years behind bars, but the law is rarely practiced" ('Jordan: Amman: Police launches campaign against homosexuals' 2008, *ANSAmed*, 27 October http://www.ansamed.info/en/news/ME03.WAM10230.html - Accessed 17 June 2009 – Attachment 7).

However, a recent world survey of laws on homosexuality dated May 2009 on the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) website indicates that homosexual acts are legal in Jordan and that there is equal age of consent for homosexual and heterosexual acts (Ottosson, D. 2009, 'State-sponsored Homophobia: A world survey of laws prohibiting same sex activity between consenting adults', The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) website, May, pp. 48-49 http://www.ilga.org/statehomophobia/ILGA_State_Sponsored_Homophobia_2009.pdf - Accessed 17 June 2009 – Attachment 8).

According to an article dated 11 February 2009 on the website of the *Sydney Star Observer*, "a weekly gay and lesbian community newspaper":

> The legal system in Jordan is a mixture of religious Sharia and European codes, with Ottoman influences. It is perhaps for this reason that Jordan is relatively more tolerant than other Arabic nations.
>
> Jordan is one the few Middle Eastern countries where homosexual acts are not illegal. The penal code was amended in 1951 to decriminalise private adult and consensual acts of sodomy (Barnett, L. 2009, 'Gay and Muslim in Jordan', *Sydney Star Observer*, 11 February http://www.starobserver.com.au/community/2009/02/11/gay-and-muslim-in-jordan/4169 - Accessed 17 June 2009 – Attachment 9).

The section on Jordan on the GlobalGayz website, "a gay-owned travel and culture website focused on les-bi-gay-trans life in countries around the world", refers to the status of homosexuality in Jordan as legal. It is stated on the website that:

> Jordan is generally seen as a moderate Muslim nation and although the criminal code makes no explicit distinction between private, adult and consensual heterosexual and homosexual relationships, Jordanians are Muslim and look critically upon homosexuality. Private, adult and consensual sodomy was decriminalized by the Penal Code of 1951. The age of consent is 16. Article 306 punishes people who offer or solicit sex from anyone under sixteen with up to six months in prison. Today, homosexuality is not a crime provided that it is noncommercial and occurs between consenting adults in private. However, vigilante honor killings of gay family members are not uncommon ('Jordan' (undated), GlobalGayz website http://www.globalgayz.com/country/Jordan/JOR - Accessed 19 June 2009 – Attachment 10).

An Amnesty International world survey of sexual minorities and the law updated in July 2006 indicates that homosexuality in Jordan is "[l]egal. But LGBT citizens at risk of vigilante 'honour' killing and have been granted asylum by other countries" (Amnesty International 2006, *Sexual Minorities and the Law: A World Survey*, updated July 2006 http://www.ai-lgbt.org/status_worldwide.htm - Accessed 1 February 2007 – Attachment 11).

2. Is there any evidence of discrimination and/or harassment of homosexuals in Jordanian society?
3. Is there adequate state protection available to homosexuals in Jordan?

A travel advice on Jordan issued on 29 April 2009 on the Australian Department of Foreign Affairs and Trade Smartraveller website indicates that:

> Homosexual relations are not socially acceptable in Jordan.
>
> Public displays of affection between heterosexual and homosexual couples are not socially acceptable and may cause offence in many parts of Jordan (Department of Foreign Affairs and Trade 2009, 'Travel Advice: Jordan', Smartraveller website, 29 April http://www.smartraveller.gov.au/zw-cgi/view/Advice/Jordan - Accessed 17 June 2009 – Attachment 12).

According to the US Department of State report on human rights practices in Jordan for 2008, "[s]ocietal discrimination against homosexuals existed. There were reports of individuals leaving the country out of fear they would be harmed by their family for being homosexual." The report also indicates that "[o]n October 23, security forces arrested for 'lewd acts' four homosexuals in a park in West Amman following a set-up by the police. Amman governor Sa'ad Al-Manaseer placed them in solitary confinement in Jweidah prison without bail. They were released after guaranteeing they would not carry out any such acts in the future" (US Department of State 2009, *Country Reports on Human Rights Practices for 2008 – Jordan*, February, Section 5 – Attachment 13).

The article dated 11 February 2009 on the website of the *Sydney Star Observer* includes the following information:

> Amman-born Faisal, 25, believes Arabic culture is the main reason why homosexuality is not accepted in his country.
>
> "According to Arabic culture, homosexual men are not real men. Jordanian society has built a stereotype of what a man is: you are not supposed to cry, to be soft, sentimental," he said.
>
> This sentiment was demonstrated in November 2008 when authorities targeted gay prostitutes because they were "spreading vice and moral decay in society." Amman's military governor Saad Manasir allegedly said, "The campaign will continue until we eradicate any trace of male homosexuals in the society."
>
> Also last year, the police raided Books@Cafe, a gay-friendly establishment, citing alcohol violations during the holy month of Ramadan. The owner, Madian al Jazerah, wrote on the internet, "This is about where we stand in hypocrisy and bigotry… We get shocked with the visit from the police with an order to close. There was no reason with the order."
>
> …Faisal acknowledges that some interpret the Muslim religion to denounce homosexuality.
>
> "The religion says no to homosexuality. If you're a Muslim you cannot live your life disconnected from the religion. Islam is a way of life, it's how society functions, governs. I believe calling yourself a Muslim country and not following the Sharia law is not right," he said.
>
> The legal system in Jordan is a mixture of religious Sharia and European codes, with Ottoman influences. It is perhaps for this reason that Jordan is relatively more tolerant than other Arabic nations.

> Jordan is one the few Middle Eastern countries where homosexual acts are not illegal. The penal code was amended in 1951 to decriminalise private adult and consensual acts of sodomy.
>
> There are mixed reports regarding honour killings in Jordan. Faisal doesn't recall any gay people suffering such a fate. The law protects perpetrators of honour killings, despite recent lobbying for the Government to repeal the legislation (Barnett, L. 2009, 'Gay and Muslim in Jordan', *Sydney Star Observer*, 11 February http://www.starobserver.com.au/community/2009/02/11/gay-and-muslim-in-jordan/4169 - Accessed 17 June 2009 – Attachment 9).

The previously mentioned article dated 4 November 2008 indicates that "[t]he Jordanian newspaper Al Ghad was the only one to report on a recent crackdown of what it said were gay male prostitutes operating in the capital. The nature of Al Ghad's reporting, and the other media's reluctance to talk about it, reveal deeply rooted anti-gay sentiments in Jordanian society." The article refers to the authorities, on 27 October 2008, apparently launching "a campaign against 'gay prostitutes' who are offering their services at a meeting point near a hospital in West Amman." It is stated in the article that:

> Al Ghad Daily ran a detailed report by its crime editor quoting unnamed security sources as saying that "the campaign will continue until we eradicate any trace of male homosexuals in the society." The quote was later attributed to Amman's military governor, Saad Manasir.
>
> The report also said male homosexuals were "spreading vice and moral decay in society and were looking for prostitution." According to the source, the number of homosexuals "continues to increase, and they now constitute a phenomenon."
>
> He also confirmed the arrest of four men who were taken to Al Juwaideh prison in Amman. Sources confirmed they cannot be released on bail and will remain in custody until they provide guarantees that they will refrain from homosexual acts.
>
> …The news item has struck a negative chord with the Jordanian public, and in a twist, the buzz on the streets has been a general disdain for the Al Ghad article, which painted male homosexuals as criminals in this case. Interestingly, Al Ghad's article was the "most read, commented on and sent item in the paper that day."
>
> One senior media analyst said the way Al Ghad published the article was very insulting. The paper had mentioned in its lead that the persons arrested were "sissies" and belonged to the "third gender."
>
> …Many reader comments about the news item on Al Ghad's website came out in support of the people arrested. One reader, who identified himself as Omasky Bukhariev, said, "I know that usually when a writer writes an article he needs to do research. So this pathetic loser should get a life... There's a difference between gay people, male prostitutes, she-males and transgenders..."
>
> Another reader, who identified himself only as "a very angry Jordanian", questioned the legality of action against the homosexuals.
>
> "I want to know what crime these people committed? If this is true then Jordan has just broken a whole lot of human rights. There is nothing in our criminal codes that says being gay is against the law."

> That is not entirely correct: Jordanian law bans homosexuality and any man caught having sex with another man faces up to four years in jail. But rights activists say the law is rarely enforced these days.
>
> …Human rights activist Henzad Altall said, "It is wrong to put gays in prison with other criminals. They must be placed in special correctional centers, to be treated and brought back to the society," she said in remarks published by the Sejil Weekly. "They are abnormal and need special treatment so that they can improve their situation and return to the community correctly."
>
> Surprisingly, Altali reflected the comments of many interviewed for this article, rights activists included, who continue to see homosexuality as a disease that can be treated.
>
> Meanwhile, no legislation exists to protect people from discrimination on the basis of sexual orientation or gender identity in Jordan, and there are no known government-recognized LGBT (Lesbian Gay Bi-sexual, Transgender) rights organizations ('In Jordan, Eradicating "every trace of male homosexuals"' 2008, *Menassat*, 4 November – Attachment 6).

The article dated 27 October 2008 on the *ANSAmed* press agency website also indicates that:

> Police authorities launched a crackdown campaign against homosexual men who gather in public places in Amman as part of official efforts to fight "immoral behavior," a police source said today. Four gay men were arrested earlier this week after they were ambushed by secret service in a public garden in west Amman, the source was quoted by al Ghad Arbic daily today. "The men were each kept in solitary confinement at Jweideh prison, south Amman, in order to separate them from other prisoners to avoid sexual relation with other inmates," said the police source. The four men, whose names were kept secret due to sensitivity of the issue in this tribal country, remain in prison without charges and authorizes [sic] refuse to release them on bail. Amman military governor, Saad Manasir vowed to continue the campaign "until all forms of sexual misconduct are ended." The governor has the right to send citizens to prison for two months without charges "if he felt their freedom represents danger the society," according to the Jordanian law. "Homosexuality is on the rise in Jordan and they have certain gathering areas as they look for a chance to practice immoral actions," the police source was quoted as saying, as he indicated number of homosexuals is believed to be 600. Jordan's law bans homosexuality and any man caught having sex with another man faces up to four years behind bars, but the law is rarely practiced ('Jordan: Amman: Police launches campaign against homosexuals' 2008, *ANSAmed*, 27 October http://www.ansamed.info/en/news/ME03.WAM10230.html - Accessed 17 June 2009 – Attachment 7).

An *Inter Press Service* article dated 14 July 2008 refers to "the results of various opinion polls that have been undertaken since the early 1980s" which "indicate that the Netherlands, Sweden, Iceland and Denmark are the most tolerant toward homosexuality and that Bangladesh, Pakistan and Jordan are the least tolerant" (Cronin, D. 2008, 'Report: Sweden among states most tolerant of gays', *Inter Press Service*, 14 July – Attachment 14).

The DFAT advice dated 29 May 2008 includes information on the social environment for homosexuals in Jordan:

> Homosexuality and homosexual acts are not illegal under the Jordanian penal code. While homosexual relations are forbidden under Islamic shariah law, under the Jordanian system there is no fine or other penalty for "crimes" under shariah law unless these are covered separately by Jordan's penal code. The social environment for homosexuals in Jordan is considered to be more tolerant than in many other parts of the Middle East. That said, it

> would be difficult to be openly homosexual in Jordan as social views on sexuality remain conservative even in cities such as Amman.
>
> …2. The social environment for homosexuals in Jordan is considered to be more tolerant than in many other parts of the Middle East. That said, it would be difficult to be openly homosexual in Jordan as social views on sexuality remain conservative even in the larger cities such as Amman. Anecdotally, Jordanian homosexuals have spoken to staff at post about the difficulty of informing their families of their homosexuality. The general social attitude could be characterised as "don't ask, don't tell".
>
> 3. Interestingly, there appears to be a far harsher social attitude taken towards heterosexual sex outside marriage, or adultery, as evidenced by the regular occurrences of so-called "honour" killings, which are generally motivated by women's perceived sexual behaviour with men (not with other women). We have not heard of any "honour" killing involving homosexuality and "honour" crimes are almost uniformly committed against women who are believed to have stained the "honour" of their families, very rarely against men (Department of Foreign Affairs and Trade 2008, *DFAT Report No. 824 – Jordan: RRT Information Request: JOR33101*, 29 May – Attachment 2).

An article in *The New York Times* dated 7 November 2007 indicates that:

> Ayman, the parade organizer [of the Gay Pride Parade in New York], said his previous life in Jordan was marked by fear. Arrested at 17 after a sexual encounter in a public building, he said the police wrote "manyak," a homosexual slur, into his file. He denied being gay, but the word resurfaced whenever the police stopped him. He worried that one day it would happen around a relative.
>
> He is convinced that a 22-year-old gay friend who died after a fall from an apartment building was the victim of an "honor" killing meant to clean the family's reputation. "I still feel like I'm a Muslim; I don't accept that anyone insults the faith," said Ayman, who avoids attending mosque. "When I read what it says in the Koran, then I fear Judgment Day" (Macfarquhar, N. 2007, 'Gay Muslims find freedom, of a sort, in the U.S', *The New York Times*, 7 November – Attachment 15).

The US Department of State report on human rights practices in Jordan for 2006 notes that "[t]here are no laws that addressed discrimination against homosexuals" in Jordan (US Department of State 2007, *Country Reports on Human Rights Practices for 2006 – Jordan*, March, Section 5 – Attachment 16).

An article on the GlobalGayz website provides information on the situation for homosexuals in Jordan in 2006. The article indicates that "[t]he overwhelming social mood is homophobic even though gay bashing is unheard of" in Jordan. "The obvious way to avoid public scrutiny is to remain very private and circumspect in demeanor and behavior. This means the gay scene happens behind closed doors, in hotels sometimes but more often behind the security walls around private homes." The article also indicates that:

> There are no gay organizations, publications, bathhouses, beaches or fully gay venues in Amman. There are a couple of gay-friendly places such Books@Cafe bookstore/café in the old town but it's also very mixed since straight people enjoy its ambience, food and drinks.
>
> …Most of gay Jordan centers around the virtual community created by the Internet. It is here where gay life begins for many men and--presumably--lesbian women in this Kingdom. Chat rooms and groups and other forms of messaging are the highway to contact here. Once

> connected they network with new and old companions in wide overlapping circles of friends who, in turn, talk in other circles (Ammon, R. 2006, 'Gay Jordan 2006', GlobalGayz website – Attachment 17).

According to an article dated 20 May 2004, the son of a wealthy Jordanian politician was thrown down the stairs and later shot in the ankle by his brother when he was recovering in hospital, after his brother found out that he was homosexual. His brother, a bureaucrat in the Jordanian government, "was never prosecuted for this act of public violence because it was considered a 'family matter.'" Prior to this, rumours about his homosexuality had begun to spread, and he had been forced to marry by his father. In 2000, his "father agreed to send him to Canada to 'straighten out.'" When he had left Jordan, he had "signed over all his assets… to his brother, the one who had tried to kill him." He had subsequently "made a successful refugee claim" (Jimenez, M. 2004, 'Gay Jordanian now "gloriously free" in Canada', *The Globe and Mail (Canada)*, 20 May – Attachment 18).

The DFAT advice dated 27 April 2004 indicates that:

> 4. The Jordanian Institute of Forensic Medicine confirmed that in the past 10 years, there have been no confirmed reports of any male individual being killed in Jordan because of his sexuality.
>
> 5. Aside from the legal situation, it is nevertheless clear that an individual homosexual might be subject to harassment and persecution by his own family or local society in general if he resides in a more conservative area of the country.
>
> 6. In the case of the individual in question, the place he purportedly resides, Jabal Manara, is considered by our interlocutors to be a relatively conservative and traditional neighbourhood. It is quite possible that homosexual practices and homosexuals in general might be totally rejected in this locality and homosexuals could be considered social outcasts because their actions contradict the Islamic religion, local social norms and traditions (Department of Foreign Affairs and Trade 2004, *DFAT Report No. 288 – Jordan: RRT Information Request: JOR16610*, 27 April – Attachment 4).

List of Sources Consulted

Internet Sources:

Government Information & Reports

Immigration & Refugee Board of Canada http://www.irb-cisr.gc.ca/
UK Home Office http://www.homeoffice.gov.uk/
US Department of State http://www.state.gov/

United Nations (UN)

UN High Commissioner for Refugees (UNHCR) Refworld
http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain

Non-Government Organisations

Human Rights Watch http://www.hrw.org/
Amnesty International http://www.amnesty.org

Topic Specific Links

International Lesbian and Gay Organisation http://www.ilga.org/
International Gay and Lesbian Human Rights Commission http://www.iglhrc.org/
GlobalGayz http://www.globalgayz.com
Sydney Star Observer http://www.starobserver.com.au/

International News & Politics
BBC News http://news.bbc.co.uk
Region Specific Links
Search Engines
Copernic http://www.copernic.com/

Databases**:**
FACTIVA (news database)
BACIS (DIAC Country Information database)
REFINFO (IRBDC (Canada) Country Information database)
ISYS (RRT Research & Information database, including Amnesty International, Human Rights Watch, US Department of State Reports)
MRT-RRT Library Catalogue

List of Attachments

1. RRT Research & Information 2008, *Research Response JOR33101*, 10 June.

2. Department of Foreign Affairs and Trade 2008, *DFAT Report No. 824 – Jordan: RRT Information Request: JOR33101*, 29 May.

3. RRT Country Research 2004, *Research Response JOR16610*, 28 April.

4. Department of Foreign Affairs and Trade 2004, *DFAT Report No. 288 – Jordan: RRT Information Request: JOR16610*, 27 April.

5. Human Rights Watch 2009, *Together, Apart: Organizing around Sexual Orientation and Gender Identity Worldwide*, May.

6. 'In Jordan, Eradicating "every trace of male homosexuals"' 2008, *Menassat*, 4 November. (CISNET Jordan CX214051)

7. 'Jordan: Amman: Police launches campaign against homosexuals' 2008, *ANSAmed*, 27 October http://www.ansamed.info/en/news/ME03.WAM10230.html - Accessed 17 June 2009.

8. Ottosson, D. 2009, 'State-sponsored Homophobia: A world survey of laws prohibiting same sex activity between consenting adults', The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) website, May http://www.ilga.org/statehomophobia/ILGA_State_Sponsored_Homophobia_2009.pdf - Accessed 17 June 2009.

9. Barnett, L. 2009, 'Gay and Muslim in Jordan', *Sydney Star Observer*, 11 February http://www.starobserver.com.au/community/2009/02/11/gay-and-muslim-in-jordan/4169 - Accessed 17 June 2009.

10. 'Jordan' (undated), GlobalGayz website http://www.globalgayz.com/country/Jordan/JOR - Accessed 19 June 2009.

11. Amnesty International 2006, *Sexual Minorities and the Law: A World Survey*, updated July 2006 http://www.ai-lgbt.org/status_worldwide.htm - Accessed 1 February 2007.

12. Department of Foreign Affairs and Trade 2009, 'Travel Advice: Jordan', Smartraveller website, 29 April http://www.smartraveller.gov.au/zw-cgi/view/Advice/Jordan - Accessed 17 June 2009.

13. US Department of State 2009, *Country Reports on Human Rights Practices for 2008 – Jordan*, February.

14. Cronin, D. 2008, 'Report: Sweden among states most tolerant of gays', *Inter Press Service*, 14 July. (FACTIVA)

15. Macfarquhar, N. 2007, 'Gay Muslims find freedom, of a sort, in the U.S', *The New York Times*, 7 November. (CISNET Jordan CX206737)

16. US Department of State 2007, *Country Reports on Human Rights Practices for 2006 – Jordan*, March.

17. Ammon, R. 2006, 'Gay Jordan 2006', GlobalGayz website. (CISNET Jordan CX206604)

18. Jimenez, M. 2004, 'Gay Jordanian now "gloriously free" in Canada', *The Globe and Mail (Canada)*, 20 May. (CISNET Jordan CX206497)