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Responses to Information Requests

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website.

30 November 2011

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Pakistan: Treatment of sexual minorities by society, government and religious authorities; recourse and protection available (2009-2011)
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

Treatment by Society

In correspondence with the Research Directorate, a country adviser to the International Gay and Lesbian Human Rights Commission (IGLHRC) for Pakistan noted that "the very word 'gay'" is currently considered part of a "western framework" for the majority of Pakistan's population that "does not have any roots in the local culture" (Country Adviser 26 Oct. 2011). Similarly, a representative of the Women Employees Welfare Association (WEWA), a Lahore-based organization working on gender equality and sexual minority rights, who is also a practicing lawyer, stated in correspondence with the Research Directorate that same-sex behaviour is "dismiss[e]d" as being a "western phenomenon" (WEWA 28 Oct. 2011).

The WEWA representative said that "[s]exual minorities are not socially accepted" in Pakistan, with the major part of society denying their "existence" (ibid.). The American Broadcasting Corporation (ABC) also notes that there is "little public acceptance of the notion that someone can love a member of the same sex" (1 June 2009).

A representative of the Neengar Society, a non-profit organization working in Pakistan for the rights of religious and sexual minorities (Neengar Society, 29 Oct. 2011), noted in correspondence with the Research Directorate that Pakistani society has a "very diverse attitude towards sexual minorities depending on the type of sexual identity of a person" (ibid.). In contrast, the WEWA representative stated that Pakistan is a "traditional and conservative society" where "sexual minorities, irrespective of sexual identity, are treated adversely[,] ... suffer various forms of discrimination in both public and private spheres [and] ... are victimized by state, society, religious groups and the family" (WEWA 28 Oct. 2011).

Sources indicate that homosexual males and females are reluctant to reveal their sexual identity (US 8 Apr. 2011, Sec. 6; ABC 1 June 2009; Neengar Society 29 Oct. 2011). 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.).

According to the Neengar Society representative, gay and bisexual men face "worse problems" than lesbians and transgendered people, such as "hatred" and "violence," because, in the Quran, many were "destroyed" for engaging in romantic or sexual relations with other men (ibid.). However, transgendered people are not exempt from negative treatment if they are known to engage in homosexual acts (ibid.). According to the Country Adviser, upper class homosexual men tend to "contract heterosexual marriages to keep enjoying the benefits of their status" (Country Adviser 26 Oct. 2011).

Legislation and treatment by government

According to the United States (US) *Country Reports on Human Rights Practices for 2010*, although homosexual intercourse is considered a crime, "... in practice, the government rarely prosecuted cases" (US 8 Apr. 2011, Sec. 6). 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" (Neengar Society 29 Oct. 2011). In follow-up correspondence, the Neengar society representative noted that all 10 cases were prosecuted, with 2 resulting in a 10-year prison sentence (Neengar Society 5 Nov. 2011). As of 6 November 2011, the rest of the cases were still in the high court of Multan with hearings taking place (ibid. 9 Nov. 2011).

According to ABC, Pakistan's constitution lists sodomy as illegal, punishable by incarceration for a period of two to ten years; however, "in the late 1980s, President Zia-ul-Haq enshrined conservative Islamic law within the country's civil law" according to which sodomy can be punishable by stoning (1 June 2009). The BBC reports that "under Sharia laws ... introduced in 1990, homosexual acts can draw punishments of whipping, imprisonment or even death" (BBC 4 July 2011). Similarly, Pink News, Europe's largest gay news service, while noting that homosexuality itself is not illegal in Pakistan, also notes that gay sex can lead to such punishments (Pink News 4 July 2011).

According to the WEWA representative, "discrimination" by the state of Pakistan against sexual minorities is "encoded, institutionalized and enforced" (WEWA 28 Oct. 2011). 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.). *Country Reports 2010* also notes that "[t]here are no laws to protect against discrimination on the basis of sexual orientation" (US 8 Apr. 2011, Sec. 6).

In addition, at both national and local levels, the government does not legally or socially accept sexual minorities and "[t]heir basic fundamental rights to existence, education and earning livelihood opportunities are openly infringed" (WEWA 28 Oct. 2011). The Neengar Society representative also noted that government authorities discriminate against sexual minorities (29 Oct. 2011).

Treatment by religious authorities

According to the Neengar Society representative, religious authorities are "anti-sexual minorities" (Neengar Society 29 Oct. 2011). The WEWA representative stated that "religious authorities take non-heterosexual behaviour as a serious and immoral offence" and can turn to violence, suggesting punishments such as "stoning or [being] buried alive" (WEWA 28 Oct. 2011).

The IGLHRC country adviser noted that religious authorities operate with "impunity" (Country Adviser 27 Oct. 2011). According to the Country Adviser, activists are "careful in promoting and propagating [their] causes because the over arching 'Blasphemy Law' can get anyone into trouble" (ibid.). He also noted that mullahs do not have to take anyone to the police that they think is homosexual, and they "can brutalize, shave heads, gang rape the zenanas," men who identify themselves as women, on the pretext of 'teaching them [a] lesson'" (ibid.). [See section below on *zenanas*.]

Agence France Presse (AFP) reports that on 4 July 2011 there were "Islamist" protests against a lesbian, gay, bi-sexual, and transgender (LGBT) pride event hosted by the US embassy on 26 June 2011 (AFP 4 July 2011). According to AFP, there were 100 protesters in Karachi, who called the event "an assault on Pakistan's Islamic culture," with demonstrations also occurring in Islamabad (30 protesters) and Lahore (150 students and two dozen pro-Taliban activists) (ibid.). Dawn.com states that in Islamabad, in a "clash" with the protesters, ten members of the police received injuries, with two cases described as "serious" (Dawn.com 8 July 2011).

Jafria News reports that a statement issued a week after the US LGBT rights event by "All the Religious and Big Political Parties" group, which includes the Jafria Alliance Pakistan and the Shia Ulema Council, stated that "homosexuality was the extreme form of human degradation" (Jafria News 25 July 2011). Pink News quotes the head of Jamaat-e-Islami, the largest Islamic party in the country, as saying that LGBT people are "the curse of society and social garbage" (Pink News 4 July 2011).

The Nation, an Islamabad-based newspaper, reports that Jamaat-e-Islami lawmakers referred the issue of the US-sponsored LGBT pride event to Parliament; the Senate "severely condemned" the event and "sent the matter to the Senate Standing Committee on Foreign Affairs for taking any possible action" (*The Nation* 23 July 2011).

Recourse and protection

The representative of the Neengar Society stated that sexual minorities do not have the option of legal recourse against discrimination, abuse or violence (Neengar Society 29 Oct. 2011). 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 (WEWA 28 Oct. 2011). The Neengar Society representative stated that "[w]hen it comes to shelter, asylum and other sort[s] of legal help ... even civil society is unwilling to help," although the Neengar society's own efforts include a legal aid program that provided 200 transgenders with free legal services in 2010-2011 (29 Oct. 2011).

Furthermore, according to the WEWA representative, "[s]exual minorities are oppressed and victimized by the police. The oppression ranges from extortion, illegal detention and sexual abuse [to] dirty language and humiliation" (WEWA 28 Oct. 2011).

An article published by the International Humanist and Ethical Union (IHEU), an "international NGO with Special Consultative Status at the UN" that subscribes to a humanist vision of the world (IHEU 25 Oct. 2007), similarly indicates that because homosexuality is illegal, even though very few arrests and convictions are made, the police will "usually blackmail" and "extort" a "known homosexual;" this type of extortion is not limited to the police, and can include any person that finds out about a person's non-heterosexual orientation (IHEU 4 Feb. 2008).

Hijras and transgenders

According to *Country Reports 2010*, *hijras* is a name given to "transvestites, eunuchs, and hermaphrodites" (US 8 Apr. 2011, Sec. 6). The BBC reports that an estimated 300,000 *hijras* live in Pakistan (BBC 23 Dec. 2009). Cable News Network (CNN) reports that human rights groups in Pakistan say that approximately 400,000 men "live as women" in the country (CNN 2 June 2010).

Hijras are "generally shunned" by society (US 8 Apr. 2011, Sec. 6; BBC 23 Dec. 2009). They usually live together in "slum communities," relying on begging, dancing at weddings and carnivals (ibid.; US 8 Apr. 2011, Sec. 6), as well as prostitution (ibid.). Pink News reports that *hijras* are "often ridiculed and forced to live in isolation. Many struggle for survival and are unable to secure jobs other than sex work, or even find a place to live away from their families. Often they are reduced to begging" (27 Apr. 2011).

According to *Country Reports 2010*, schooling, hospital admission, ability to rent or buy property, and inheritance are often denied to *hijras* (US 8 Apr. 2011, Sec. 6).

Country Reports 2010 indicates that, in July 2009, the Supreme Court "stated that *hijras* were equal citizens and ordered provincial social welfare departments to survey and register *hijras* and to provide them benefits from the government's financial support mechanisms" (ibid.). The Supreme Court also ordered the district administrations to help them obtain their inheritances after finding their families (ibid.). That same year, the Supreme Court also ruled that *hijras* could identify as a distinct gender on their national identity cards (ibid.; RFE/RL 8 June 2010).

The BBC reports, however, that "eunuchs are still treated in many cases like second class citizens despite ... [being] granted equal status" by the inclusion of the third gender identification on the national citizen registration form (BBC 26 May 2010).

Pink News reports that, after the formalization of the new gender category, "some trans men and women are already being employed by the government in their drive to crack down on tax evaders" (Pink News 27 Apr. 2011). According to the BBC, this employment consists of the transgendered people, dressed "theatrically," knocking on the doors of people who have not paid their taxes, telling them to pay, and if they don't, the tax collectors "stand on their doorstep and give them trouble and make a spectacle" until they pay (25 Apr. 2011).

Zenanas

According to the Country Adviser, zenanas are a sexual minority separate from hijras (Country Adviser 26 Oct. 2011). He further states that the zenana "non-conformity to the biological construct is unacceptable" across all economic groups (ibid.). However, those from lower economic groups "... generally around puberty leave or run away from their homes because the pressure of conforming to the biological construct starts increasing from the males of the household and most of the time takes a mentally and physically abusive turn" (ibid.). Most zenanas, according to the Country Adviser, end up as sex workers on the street (ibid.).

According to the Country Adviser, human rights abuses against zenanas include rape (including by police and "religious zealots"), police harassment, and policing by "religious zealots," who may shave the head and eyebrows of a zenana, which is considered an insult (ibid.). The Neengar Society representative also noted that, because they are visible, transgendered people face more problems with the police, such as arrests and sexual abuse (29 Oct. 2011).

According to the BBC, there are an estimated 50,000 transgendered people in Pakistan (BBC 25 Apr. 2011). A transgender individual interviewed by the BBC noted that people abuse them and tease them, and that it is hard to move about and find a place to live (ibid.). According to the BBC article, even though they face discrimination in Pakistan, "transgenders have long been accepted as part of the fabric of Pakistani society" (ibid.). The Neengar Society representative also noted that Pakistani society is tolerant of the transgender community because it has been "visible in this society for many centuries" (29 Oct. 2011).

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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Oral sources: Attempts to contact the Applied Social Research Resource Centre, Human Rights Commission in Pakistan, International Humanist and Ethical Union, and Safra Project were unsuccessful. The International Gay and Lesbian Human Rights Commission could not provide information for this Response.

Internet sites, including: Amnesty International; Dawn.com; European Country of Origin Integration Network; Factiva; *The Guardian*; Human Rights Commission of Pakistan; *The Hindu*; International Gay and Lesbian Human Rights Commission; *Newsline*; Official Web Gateway of the Government of Pakistan; United Kingdom Border Agency; United Nations – Integrated Regional Information Networks, High Commissioner for Human Rights.

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