

Report

## Pakistan: Homosexuals and homosexuality



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## **SAMMENDRAG**

Dette notatet belyser det lovverket som regulerer seksuelle forhold mellom personer av samme kjønn og dets implementering i Pakistan, samt samfunnets holdninger til homoseksualitet og myndighetenes beskyttelse av homofile. Sex mellom menn er forbudt, både i henhold til lovverk og religion. Lovverket gir ikke homofile eller lesbiske rettigheter, og beskytter dem heller ikke mot diskriminering.

I Pakistan, som i mange kjønnssegregerte samfunn ellers, anses homosocial adferd å være normalt, og sex mellom menn er utbredt og akseptert under forutsetning av at det skjer med diskresjon og i skjul; alle vet hva som foregår, men ingen snakker om det.

Samtidig er det pakistanske samfunnet preget av fiendtlighet mot seksuelle minoriteter, og det å stå frem som homofil innebefatter risiko for sanksjoner fra familie, sosial isolasjon, rettslige problemer og vold.

## **SUMMARY**

This report examines the legal framework related to sexual relationships between persons of the same sex and its implementation in Pakistan, as well as general societal attitudes towards homosexuality and the authorities' protection of homosexuals. Sex between men is illegal, both according to law and religion. No civil rights legislation exists to protect gays and lesbians from discrimination.

In Pakistan, as in many other gender-segregated societies, homosocial behaviour is considered normal and homosexual sex between men is widespread and accepted under a condition of discretion and secrecy; everybody knows what is going on, but nobody talks about it.

At the same time the general climate for sexual minorities is hostile, and a person who comes forward as a homosexual will risk sanctions from the family, societal isolation, legal problems and violence.

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## **1. INTRODUCTION**

This report has been prepared based on a specific inquiry from UDI. The report only discusses topics and problems raised in the inquiry and some sections are in fact answers to specific questions. Therefore, this is not an exhaustive account of homosexual behaviour and homosexuality in Pakistan. The report is based on open, publicly available sources, Landinfo's own experience with and knowledge of Pakistan, and interviews with two female human rights activists in Islamabad in November 2012; lawyer Hina Jilani and an experienced and profiled scholar.

## **2. BACKGROUND**

It must initially be emphasised that the information in this report is limited by certain basic conditions.

- In Pakistan there is no room for any public debate on sexuality.
- The difference between homosexual behaviour and homosexual identity (or basic emotional orientation) is not a part of public discourse or public awareness. The prevailing perspective is that homosexuality is about voluntary actions. Actions which, both according to cultural and religious norms, are regarded as unnatural, immoral and punishable.
- Pakistan has no laws against discrimination based on sexual orientation or gender. Neither the government nor others relate to social categories based on sexual orientation except for – though indirectly – the group of so-called *hijra*. Most hijra are physiologically men with a feminine identity and appearance. Pakistan is one of the first countries in the world to recognise transgender as a third gender category, as the Pakistani Supreme Court ordered the National Database & Registration Authority (NADRA) to incorporate three columns for gender on the national ID card in November 2009. Any issues related to homosexuality as an identity for hijra are thus «eliminated» by categorising them as a separate gender. Conditions related to this group, which is in most regards very vulnerable and discriminated against, will not be addressed in this report.
- Landinfo is not aware of national organisations which are systematically and openly engaged in rights-related work for homosexuals or men who have sex with men (MSM).<sup>1</sup> However, some locally based groups of homosexuals offer limited, often social, assistance to homosexuals and MSM. The anecdotal information available about such groups indicates that they keep a low profile (Ladly 2012).
- Landinfo is not aware of studies of conditions for homosexuals or MSM in Pakistan (except for studies related to HIV/AIDS).

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<sup>1</sup> Term refers to all men who have sexual relations with other men, also those who do not regard themselves as homosexuals.

### **3. JUDICIAL SITUATION**

#### **3.1 LEGAL RULES**

Capital punishment and life imprisonment for homosexual acts exist in many countries that have legislation which is influenced by or based on sharia. Sexual acts between persons of the same gender are illegal in Pakistan. The legal situation is clear: any sexual activity outside the context of heterosexual marriage is punishable under both secular and religious law. The legislation comprises sharia and secular laws which can be used separately or in combination against the accused. In secular law, the legal prohibition is in paragraph 377 of the Penal Code (Penal Code 1860). This provision, of which similar variants can be found in the penal codes of several former British colonies, does not specifically refer to homosexuality, but deals with actions that go against «the natural order». The full provision reads:

*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 (Penal Code 1860).*

The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) also considers the so-called *Hudood* legislation to be relevant to homosexual acts (ILGA, n.d.). In the late 1970s, provisions were introduced to bring the penal code in Pakistan into conformity with sharia. The Offence of Zina (Enforcement Of Hudood) Ordinance from 1979 specifies penalties for various acts described as crimes against God according to the Koran and Islamic legal tradition. According to the Koran, the so-called *zina* crimes, which include extramarital sexual relations, fall under this category of crimes. The Offence of Zina (Enforcement of Hudood) Ordinance defines zina as such: «A man and a woman are said to commit ‘Zina’ if they wilfully have sexual intercourse without being validly married to each other» (Zina Hudood Ordinance 1979, § 4). The maximum punishment for zina is stoning to death. Paragraph 12 mentions «unnatural lust» in connection with coercion and has the death penalty as the strictest punishment.

Landinfo's understanding is that the law does not, as opposed to the case in the neighbouring countries of Iran and Afghanistan, authorise death penalty for voluntary sex between persons of the same gender. Lifetime imprisonment under Penal Code paragraph 377 thus seems to be the strictest penalty. ILGA, as well as other sources, indicate that the Hudood legislation can include sex between persons of the same gender and that homosexuality is punishable by death. In an article on IRIN News, it says:

*Such questions might best be put to the country's lawmakers, with Pakistan reportedly being one of the few countries in the world where homosexuality is punishable by death. According to ILGA, Pakistan is one of only eight countries today still retaining capital punishment for homosexuality (IRIN News 2005).*

Landinfo is uncertain whether ILGA's description of the level of punishment is accurate. The restrictions on personal relations authorised in § 4 and 5 in The

Offence of Zina (Enforcement Of Hudood) Ordinance (referenced above) suggest, as Landinfo understands it, that sexual acts which may constitute zina must take place between persons who either (1) are unmarried or (2) are not married to each other, and - in addition - (3) are of different genders. Voluntary sexual acts between persons of the same gender are not covered by the provisions. The information Landinfo has on legal proceedings in connection with homosexual acts also indicates that the Hudood legislation provisions for zina are not used (see next chapter).

However, for cases where there is coercion and violence associated with homosexual acts («unnatural lust of any person»), it seems clear that the Hudood legislation's provisions apply. This means that in cases where there is no consent to homosexual activity, the one who is considered the offender may be affected by punishments which include fines and flogging, up to 25 years in prison and the death penalty, see § 12, referenced above. The provision thus deals with abuse, not voluntary sexual activity between persons of the same gender.

### **3.2    LEGAL PRACTICE**

Landinfo is not aware of sources which systematically collect information on the Pakistani police' and legal system's implementation of the provisions referenced above. There is no systematic information on the extent to which or how the law is administered towards homosexuals and persons who have voluntary sex with someone of the same gender.

PakistanCriminalRecords.com presents criminal cases which have been reported in the Pakistani press.<sup>2</sup> Landinfo has found 24 cases where there was reported to exist a suspected breach of § 377 or prosecution in accordance with § 377 of the Penal Code. In several of the cases, there also seems to be prosecution for other serious criminal provisions, such as § 376 on rape. A quick review of the cases indicates that many of these, according to press releases, involve minors who have been abused by adults. Taking into account the element of violence and coercion described, it might at first seem strange that § 12 of the Hudood legislation is not used and that the federal sharia court (The Federal Shariat Court) has not been involved in more of the cases referenced. When cases are taken to or dealt with by the Sharia Court, these are also cases which seem to be about sexual assault cases against minors.

For several years, the volunteer organisation Sahil has collected extensive information about sexual abuse of children. The organisation's experiences indicate that girls are most often the victims, while about 1/3 are boys (Pakistan Today 2013). The figures from Sahil reflect a reality that was described in an article from 2004 in The Boston Globe.<sup>3</sup>

*In villages throughout the country, young boys are often forcibly «taken» by older men, starting a cycle of abuse and revenge that social activists and observers say is the common pattern of homosexual sex in Pakistan. [...]*

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<sup>2</sup> It is not possible to establish how representative the character of the cases that are commented by Pakistani press is, or about the ability of the press to detect and present cases that deals with sexual acts between persons of the same sex.

<sup>3</sup> The figures from Sahil are also mainly based on press reports, and as such, are likely not to be representative.

*Most people know it happens – from the police to the wives of the men involved* (Boston Globe 2004).

The report *Cruel Numbers 2011* does not specify the perpetrators' gender, but it is indirectly stated that most are men. The offender is referred to as male (Sahil 2011, p. 4), and Sahil's comment that «female abettors» are registered in 102 of over 3,000 cases registered in 2011 supports the assumption that most are men:

*The table above indicates that 102 female abettors also supported the abusers in sexual crimes; this is alarming as women are thought to be gentle, kind, caring and weak and therefore are not seen as being involved in such a crime, which is why they are used to trap children. It is very ironical to see them committing such a heinous crime* (Sahil, 2011, p. 11-12).

The existing information indicates that the implementation of the religious and secular laws criminalising sexual acts between people of the same gender seem to be directed against abuse actions. There are cases where there is abuse of power, coercion and violence against minors which result in prosecution and legal consequences - not voluntary sexual relations between adults of the same gender. It is important to emphasise that, as far as Landinfo understands, there is no publicly available representative information about the prosecution of persons who have voluntary sexual intercourse with persons of the same gender. At the same time, there does not seem to be indications that the provisions mentioned are used against homosexuals or homosexual «practices». Landinfo is not aware of a single documented case of a conviction for «carnal intercourse against the order of nature with any man, woman or animal» in accordance with § 377 in the Penal Code. Landinfo assumes that it requires traditional Islamic requirements for proof for a conviction in cases of Hudood legislation: either that four faithful Muslims must witness the situation or the defendant confesses four times. It is possible that standard of proof in itself prevents prosecution and effectively protects people who theoretically could be prosecuted under this law. This assessment of the legal practice seems to be valid and is in accordance with the information from sources who work with issues connected to homosexuals and homosexuality. ILGA answers no to the question of whether the law is used often, without mentioning examples of it being used (ILGA, unknown year). The U.S. Department of State, which similarly does not give examples of application, has pointed out in several of its annual reports on the human rights situation in Pakistan that homosexuals are rarely prosecuted, most recently in 2010:

*Homosexual intercourse is a criminal offense; in practice, the government rarely prosecuted cases. Gays and lesbians rarely revealed their sexual orientation. There are no laws to protect against discrimination on the basis of sexual orientation* (U.S. Department of State 2011).

Landinfo is aware of several isolated press releases in the 1990s and 2000s which indicate that homosexuals or persons of the same gender who have had sex have been punished. The same cases seem to be repeated. A case which is described by several sources is from Khyber Agency in May 1997. The American gay rights organisation GLAPN, with reference to the World Organisation Against Torture (WOAT), indicates on its website Sodomy Laws that this case also represents an adult-minor relationship:

*The World Organization Against Torture (WOAT) is targeting Pakistan over the recent whipping of two males allegedly caught having sex in a public lavatory. Mohammad Zaman, 38, a mosque worker, and Fahimullah, a 14-year-old student, were lashed publicly May 17 in Bara Bazar in Pakistan's western Khyber Agency, an area administered by local Afridi tribespeople*" (GLAPN 2007).

Another case that some sources present as an example of reactions against homosexuals was referenced by BBC in October 2005. This case also seems to involve an adult-child relationship:

*Witnesses said a 42-year-old Afghan refugee held a marriage ceremony with a local tribesman of 16 in the remote Khyber region bordering Afghanistan. Gay marriage is not legal in conservative Muslim Pakistan. On hearing of the wedding, a tribal council told the pair to leave the area or be killed for breaking religious and tribal «values and ethics» (BBC 2005).*

In both cases, both parties seem to have been punished. The reactions are thus aimed at the homosexual element and not against any abuse of a minor. If that were the case, the victim would not have been punished.

### **3.3   LEGAL ADMINISTRATION**

Some sources point to a type of harassment against men who have sex with men which Landinfo recognises from other countries in the region, for example Nepal and Sri Lanka. As with Pakistan, these countries have an almost equivalent legislation against «unnatural sexual intercourse» which does not extend to men who engage in voluntary sexual relations with other men (MSM). In all three countries, private space and privacy is limited and it is therefore challenging to keep taboo relationships hidden. Generally the weakest socio-economic groups will be the most exposed and vulnerable, such as prostitutes. They will not be arrested, investigated or prosecuted, but risk being subjected to various forms of harassment, coercion and extortion by law enforcement agents - most often the local police. Hasan Mujtaba gives an example of how corruption, violence and intimidation affect weak MSM. The prostitute Farukh was regularly raped by policemen, under threat of prosecution under the law and disclosure of his sexual preferences to his family. He then had to pay bribes to the police to be able to operate, but he was also involved in extortion crimes along with the police (Mujtaba 1997).

There is also information about harassment from private individuals, such as restaurant and hotel owners and pimps. It is probable that reporting such incidences would lead nowhere, and the police have no will to follow up on such harassment.

Therefore, as Landinfo understands the situation, MSM do not have problems related to criminal prosecution. Those who are most visible in public, however, risk being harassed by the police, a harassment that seems to be both economically and sexually motivated. The harassment probably primarily affects persons of low socio-economic background and hijra. The ban works as a basis for threats; threats which lead to extortion.

## **4. ATTITUDES – SOCIAL CONDITIONS**

### **4.1 ISLAM**

Islam and Islamic thought affects all aspects of society in Pakistan and paragraph 227(1) in the Constitution formally sets out Islam's central position (Constitution of Pakistan 2010):

*All existing laws shall be brought in conformity with the injunctions of Islam as laid down in the Holy Quran and Sunna ... and no law shall be enacted which is repugnant to such injunctions.*

The broad consensus is that sex between persons of the same gender violates Islamic law and many probably equate homosexual acts with zina. As Landinfo perceives the situation, there are differing opinions on both the burden of proof and the level of punishment. Landinfo is not aware of research on the legal perception in Pakistan, but it is probably on a very strict continuum; stoning to death, burning to death, throwing off cliffs, life imprisonment, etc. The Malaysian lawyer Shafi'i Abdul Azeez Bello is categorical in his assessment of the climate of opinion in Pakistan:

*LGBT (Lesbian, Gay, Bisexual and Transgender People) rights are not supported by any political or humanitarian party that does not value self-destruction. Being a lesbian, gay, bisexual or transsexual person is considered a taboo vice in parts of society of Pakistan and gay rights are close to non-existent (Bello 2012).*

### **4.2 FAMILY**

#### **4.2.1 Family – interaction between the genders**

The family is the most important social institution in Pakistani society. The family and the consolidation of its resources and reputation is more important than individual aspirations. Love and emotions are recognised within the framework of the traditional family and all sexuality outside marriage is taboo. The foundation of the family's reproduction is the woman and protection of female sexuality is central. Interaction between the genders is not accepted in practice and women and men from different families do not appear together. It is not considered decent to show affection or devotion and even married couples will act reserved towards each other with others present. At the same time, there are major variations between urban and rural areas and between different socio-economic groups. In some areas (such as in Balochistan), one will only rarely see women outdoors, while in large cities, young people belonging to a liberal and educated upper social layer have certain but discrete relations. For the majority of Pakistanis, however, there are few - if any - meeting places for women and men outside the context of the family (marriage). Pakistani social life is markedly characterised by gender segregation.

On the other hand, persons of the same gender (most often men) can relatively openly display emotion to each other. In Pakistan, one can often see young boys who hold hands and act in a way that probably would be perceived as an expression of homosexuality in Western countries. While women and men cannot even shake hands in many cases, it is not uncommon to see men who almost act in a courtship

manner. When it comes to opportunities for persons of the same gender to show affection towards each other in public, it seems that the relationship between intimacy and social background is the opposite of what is the case for the same between women and men. Hugging, holding hands and physical contact between men seems to primarily be prevalent in lower socio-economic layers. The middle class and upper class, however, have adopted the Western notion that such behaviour may be indicative of homosexual attraction – which seems to be a trend in many communities around the world where showing affection towards someone of the same gender has traditionally been fine.

*The moderate sections of the upper and middle class have mixed-gender gatherings and young men from this background do not hold hands as they are aware of the association this behaviour holds with homosexuality* (IHEU 2008).

IHEU indicates that the acceptance of affectionate behaviour between men means that «It is very easy for homosexuals to disguise their relationship in this manner» (IHEU 2008).

#### **4.2.2 Family – sexual relations between men**

The family culture's focus on control of women and their sexuality means that women are effectively not available to unmarried men. A series of sources confirmed that sexual intercourse between men is widespread in Pakistan and the two quotes below are representative of several sources' descriptions of the situation.

*Although it remains a taboo subject, homosexuality is relatively common in Pakistan* (BBC 2005).

and

*While such behaviour is strictly illegal, homosexuality is fairly widespread in Pakistan. Under the country's Islamic laws, sodomy carries a penalty of whipping, imprisonment or even death - but the fact on the ground is that it is also for the large part silently accepted* (IRIN News 2006).

Gender segregation and the strong control of women is probably a partial explanation why sex between persons of the same gender (read: men) is relatively widespread and tacitly tolerated.

It is probably relevant to understand this tolerance in light of that homosexual acts, in isolation, do not represent a threat to the basic institution of Pakistani culture, family. A stronger focus on stricter levels of punishment for extramarital heterosexual intercourse (zina) than homosexual intercourse, may be a reflection of the same. The anthropologist Unni Wikan also points to the traditionally high degree of tolerance for homosexuality in many Muslim societies, and this should be seen in light of the uncompromising demand that women should be sexual pure and chaste. Sexuality between men is considered a safety valve that protects women (Landinfo 2012).

The researcher Badruddin Khan suggests the following about the background of a general tacit tolerance of homosexuality in an interview on Queer Jihad:

*Private sexual conduct is really not a big issue. In fact, from a pragmatic point of view, it is probably better for a young man to have sex with other*

*men before marriage than a woman, since the only women available would presumably be prostitutes* (Khan, n.d.).

In an article in the New York Times, an anonymous homosexual journalist says that – despite the taboos – it is relatively easy and common to practice homosexual acts under cover of close friendship with someone of the same gender in Pakistan. The journalist points out that there is a basic assumption that no one knows:

*Pakistani society is sharply segregated on gender lines, with taboos about extramarital sex that make it almost harder to conduct a secret heterosexual romance than a homosexual one. Displays of affection between men in public, like hugging and holding hands, are common. “A guy can be with a guy anytime, anywhere, and no one will raise an eyebrow”* (Ladly 2012).

In an interview from 2004, a young boy, Aziz, points out that he has sex with other men because women «are largely inaccessible – even in red-light districts, where there are many more men than women for rent» (Kennedy 2004). The absence of women can mean that homosexual acts in Pakistan – more often than in other areas – is not necessarily the expression of a homosexual identity or orientation. The journalist cited above also points out that «Many Pakistani men who have sex with men do not think of themselves as gay. Some do it regularly, when they need a break from their wives, they say, and some for money» (Ladly 2012).

In connection with Landinfo's visit to Pakistan in November 2012, questions connected to homosexual behaviour and homosexuality were discussed with two key human rights activists, lawyer Hina Jilani and an activist and social scientist. They pointed out that in large cities it is not uncommon – and accepted – for unmarried women to live together and that unmarried men live together with unmarried men. Such cohabitation is often economically practical and may not be a confirmation of a relationship. A prerequisite for such cohabitation is that there is no information about a sexual or emotional relationship (conversations in Islamabad 2012). Already in 2005, the same conditions as our interlocutors described were suggested in a BBC article: «Increasingly, gay couples are living together in some of the big cities such as Karachi and Islamabad, but gay marriages remain unheard of» (BBC 2005). In an article in the New York Times from November 2012, it says:

*But the reality is far more complex, more akin to “don’t ask, don’t tell” than a state-sponsored witch hunt. For a long time, the state’s wilful blindness has provided space enough for gays and lesbians. They socialize, organize, date and even live together as couples, though discreetly. One journalist, in his early 40s, has been living as a gay man in Pakistan for almost two decades. “It’s very easy being gay here, to be honest,” he said, though he and several others interviewed did not want their names used for fear of the social and legal repercussions. “You can live without being hassled about it,” he said, “as long as you are not wearing a pink tutu and running down the street carrying a rainbow flag”* (Ladly 2012).

#### **4.3 PEDERASTY**

Landinfo's review above suggests that most criminal cases concerning homosexual behaviour are cases where older men have abused young boys (minors) sexually. Most sources claim that the scope of this category of abuse is very extensive

throughout Pakistan, and tolerated: «Most people know it happens – from the police to the wives of the men involved» (Kennedy 2004).

Guardian journalist Shahista Gohir points out that traditions involving abuse of minors is widespread in both Afghanistan and Pakistan:

*The moral hypocrisy is outrageous in a country where homosexuality is not only strictly forbidden but savagely punished, even between two consenting adults. However, men who sodomise young boys are not considered homosexuals or paedophiles. The love of young boys is not a phenomenon restricted to Afghanistan; homosexual pederasty is common in neighbouring Pakistan, too. In my view, repression of sexuality and extreme gender apartheid is to blame* (Gohir 2010).

Unni Wikan also points out that relationships between older men and young boys are common and indicates that in many Muslim environments, a form of double standard manifests through «the willingness not to know»; acts in conflict with Islam or strong cultural constraints are not discussed (Wikan 2007).<sup>4</sup>

## 5. HOMOSEXUALITY AND HOMOSEXUALS

It is pointed out in the introduction that homosexuality is primarily understood as actions rather than as a basic emotional orientation – homosexuality. To the extent that it is understood and discussed as related to identity, it is often emphasised that homosexuality does not exist in Pakistan and that it is a phenomenon created by Western decadence (IRIN News 2005). Pakistan, along with several other Muslim countries, voted against a UN resolution in 2003 recognising gay rights (Osborn 2003). Despite a relatively high degree of tolerance for sex between men, homosexuality, like homosexual acts, is not accepted in Pakistan. The human rights lawyer Hina Jilani emphasised in her conversations with Landinfo that the issue of homosexuality simply cannot be discussed in Pakistan. Not even a high-profile person like her can discuss issues related to sexual orientation and homosexuality.

There is no room for exposure of a gay identity in Pakistan. Landinfo believes that this, as with the tacit tolerance for homosexual acts, can be seen in the light of ruling family and marriage traditions. Unlike homosexual acts, homosexuality represents a permanent threat to marriage and reduces a family group's opportunity for consolidation through marriage. Homosexuality carries a sense of and is in itself a source of the destruction of the patriarchal extended family. Homosexuality violates the Pakistani community's most important institution and it would probably be perceived as far more serious to come out with a homosexual identity than if homosexual acts were to come into public awareness.

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<sup>4</sup> See also Landinfos response *Afghanistan: Dansende gutter [dancing boys] (bacha bazi)* (Landinfo 2011).

## **5.1 PUBLIC AWARENESS**

It is established above that persons of the same gender can live together, but if they have a homosexual relationship and it becomes known, they risk serious abuse, according to both sources in Islamabad. Hina Jilani categorically established that it is not possible «to come out of the closet» in Pakistan, it would expose the person to risk of serious violence from private parties. There is no empirical data available, so Jilani's viewpoint is regarded as a qualified assessment. Landinfo believes that there is no reason to question the assessment; the lack of empirical data is probably a confirmation that it is correct.

Landinfo also believes that it is reasonable to assume that the strongest reactions will come from the immediate family, because a family member who is characterised as homosexual would clearly weaken the family group's moral status and honour. As an extension of homosexual acts having an element of zina, one cannot ignore that publicly known homosexuality within a traditional and religiously conservative environment would represent a risk of serious reactions. Risk of reactions and the seriousness of the reactions would probably vary along several dimensions, including geography, religious/cultural climate, network, political influence/power, economics and education, etc.

It is furthermore possible that other parties would react, primarily conservative religious environments which could take action and represent a threat of serious abuse.

## **5.2 WITHIN THE FAMILY – NOT PUBLICLY KNOWN**

Of course the lack of empirical data also applies when it comes to how knowledge of homosexual acts and homosexuals are handled within families.

The widespread willingness for tacit tolerance and the importance of safeguarding the family's reputation also means that reactions from the immediate family would probably not be made known. It would weaken the family's reputation. At the same time, the family's reputation depends on expectations that conventions be met and all family members are responsible for maintaining the group's status. Therefore, it is reasonable to assume that homosexuals would be subjected to strong pressure from the immediate family to marry. The homosexual may probably also be shamed and have their status redefined internally within the family. This may involve reactions ranging from demands for medical treatment to the person losing their traditional and legal rights internally within the family, the most extreme consequence is for them to be expelled. It is probable that many homosexuals fulfil the family's demands to meet conventions and marry, while continuing to be homosexually active.

*Society accepts them so long as they are marrying, procreating and fulfilling the responsibilities of their families; after that they are free to do whatever they want. But leading this dual life is hardly a solution and it's high time that we addressed this issue and tried to develop an alternative framework as traditional Judaism and Christianity have done. Therefore, Muslim societies need to seek alternative interpretations of scriptures and available scientific research evidences to develop a rational and considerate stance regarding homosexuality (Hadi 2009).*

Homosexuals who are ostracised by their families would have no other choice but to establish themselves on their own. Such establishment would hardly be possible in the homosexual's original environment or in rural areas in Pakistan, but may occur in larger cities. «For a long time, the state's wilful blindness has provided space enough for gays and lesbians. They socialize, organize, date and even live together as couples, though discreetly» (Ladly 2012).

### **5.3    LEGAL CONDITIONS – CONTRACTS BETWEEN HOMOSEXUAL MEN**

With the exception of the recognition of hijra as a group, there are no legal provisions which explicitly protect sexual minorities.

Landinfo has no information about what applies to written contracts regarding duration of relationships or the content of relationships between homosexuals. Contracts of this nature would hardly have legal value, because they relate to legally punishable conditions and expose the parties to risk of reactions or – at worst – serious abuse.

### **5.4    PARTICULAR ETHNIC GROUPS**

Landinfo has no information which suggests that particular ethnic groups have a more liberal attitude to homosexuals or sex between persons of the same gender. ILGA, amongst several sources, claimed that there is «some tolerance of intergenerational male-male relations in tribal areas bordering Afghanistan» (ILGA, unknown year). The claim is not specific and ILGA does not refer to documentation. As Landinfo understands the existing information, it can generally be assumed that – in all areas in Pakistan – there is a risk of reactions from private parties if it becomes known that persons of the same gender have a sexual relationship. However, some argue that it is more common in some areas for men to have sex with men. For example, one of Landinfo's interlocutors pointed out that «it's an open secret that men having sex with men happens more frequently in Khyber than other areas.» The source said that the reason for the alleged frequent occurrence of such relationships in Khyber is that segregation in this area is more extensive and the sexual frustration is greater than in other areas.

### **5.5    ORGANIZED ACTIVITY/INTEREST ORGANISATIONS**

With one exception, none of the sources Landinfo consulted know of any information about organisations which work for gay rights in Pakistan. One of the sources gave information about a named organisation in a city in the Punjab province which is said to work for gay rights.<sup>5</sup> Landinfo has not succeeded in finding publicly available information which could confirm the actual existence of the organisation. There are strong indications that this is a loose association of private individuals who discretely provide individual support to homosexuals. Such groups exist in several major cities, but these cannot be categorised as organisations which work for gay rights. It would hardly be possible to run such an organisation in Pakistan as of 2013.

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<sup>5</sup> To avoid the risk of exposing this organization, should it exist, to any problems, Landinfo refrains from disclosing its name.

## **5.6 TRANSGENDER**

Pakistan was amongst the first and is one of the few countries which have accepted the gender category of transgender (English transgender/TG). TG is included on the national ID card. Transgender people are not considered to be homosexual and are neither men nor women. They are tolerated as a group, but not respected. One of Landinfo's interlocutors described their situation as follows: «TG are outcast, have bad health, are regarded as scum by religious groups and have no access to the labour market. Most of them are involved in the entertainment business.»

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