


Criminalisation of Homosexuality

Updated 25 October 2015

 Bangladesh		
<p>National Law: <i>Penal Code, 1860</i>¹</p> <ul style="list-style-type: none"> - S377: Unnatural Offences² 	<p>Maximum Penalties:</p> <ul style="list-style-type: none"> - 10 years' imprisonment with the possibility of a fine 	<p><u>Treaty Ratification</u></p> <p>CAT</p> <p>CEDAW</p> <p>CEDAW OP</p> <p>CRC</p> <p>ICCPR</p> <p>ICESCR</p>
<p>The law is applicable only to men.</p>		
<p>Enforcement</p>	<ul style="list-style-type: none"> - Whilst prosecutions are rare, there have been some reported instances. Moreover, it has been reported that some gay men are forced into heterosexual relationships and marriage having revealed their sexuality to their family.³ - 2014: The 2014 United States Human Rights Country Report claims that the law is not actively enforced.⁴ - 1 October 2013: A lesbian couple who went through a Hindu marriage ceremony living in Bangladesh were imprisoned. Police sent the couple for 'sex identification' tests.⁵ 	
<p>Statements by Public Figures</p>	<ul style="list-style-type: none"> - September 2014: Bangladesh's Permanent Representative to the UN Abdul Momen told the Dhaka Tribune that Bangladesh did not support the recommendations of the International Conference on Population and Development (ICPD) to work to reduce vulnerability and eliminate discrimination based on sexual orientation and gender identity. <i>'It goes against our values. Like many other countries including those Muslims and Christian, we opposed it.'</i>⁶ - 25 October 2013: Muslim groups in the country called for a protest over statements made in April 2012 by Muhammad Yunus, a Bangladeshi born Nobel Peace Prize winner, which criticised the Ugandan (then proposed) anti-gay laws. Director-General of the State-run Islamic Foundation, Shamim Mohammad Afza, was quoted as saying: <i>'Yunus has become an apostate for supporting homosexuality. He must publicly apologise, or we'll force him to leave the country'</i> 	

	<p><i>like Taslima Nasreen.</i>⁷</p> <ul style="list-style-type: none"> - 29 August 2013: Bangladesh national newspaper, the <i>Dhaka Tribune</i>, called for the decriminalisation of homosexuality: <i>'we do believe that even most people, who object to homosexuality, do not want to see people put in jail for it, do not want the state to waste its resources treating it as a crime, and do not want to create an environment that allows for persecution and immiseration [sic] of homosexuals.'</i>⁸
<p>Persecution and Discrimination</p>	<ul style="list-style-type: none"> - 13 July 2015: Police reportedly arrested three people over beating a transgender person to death, after a complaint was filed accusing nine people.⁹ - December 2014: Law enforcers are allegedly using Section 54 of the Criminal Procedure Code to harass LGBT people according to an NGO. Speaking at a Bandhu Social Welfare Society workshop, Barrister Sara Hossain, honorary director of Bangladesh Legal Aid and Services Trust (BLAST) said that law enforcers are using Section 54 of the Criminal Procedure Code to harass LGBT people. According to her, besides being politically motivated, sometimes the arrests take place simply to take bribes. Under Section 54 of the Code of Criminal Procedure of 1898, individuals may be arrested under suspicion of criminal activity without any order from a magistrate or a warrant.¹⁰ - 2014: The US Human Rights Country Report noted that LGBT groups reported police used the law as a pretext to bully LGBT individuals, particularly those seen as effeminate men. Some groups also reported harassment under a suspicious behaviour provision of the police code.¹¹ It was also reported that attacks on LGBT persons occurred occasionally, but those offenses were difficult to document because victims desired confidentiality. The Bandhu Social Welfare Society, a local NGO, reported 33 cases of assault, 82 cases of domestic violence, and 154 cases of discrimination against LGBT persons from September 2013 through September 2014. Strong social stigma based on sexual orientation was common and prevented open discussion of the subject. - October 2013: Bangladesh media reported that a lesbian couple from the Jhalakati District of Bangladesh were arrested and jailed, and subjected to a 'gender test'. A case was filed against them under Section 290 of the Penal Code for 'unsocial activities'.¹² This followed reports in June 2013 that two women in Bangladesh were arrested for marrying in secret.¹³ - July 2013: A 2012 report by the Bandhu Social Welfare Society recorded 172 incidents of persecution and abuse of Bangladeshi sexual minorities. In the report 27 people were subject to abuse by <i>mastans (local thugs with political connections and influence)</i>, and 21 by police.¹⁴ - February 2009: A report by the Sexual Rights Initiative claimed that sexual

	<p>minorities in Bangladesh have been subject to <i>'abduction, arbitrary arrests, detention, beatings and gang rape by the law enforcing agencies and local thugs'</i>.¹⁵</p>
<p>Legislative News</p>	<ul style="list-style-type: none"> - 24 March 2015: Voted in favour of a failed Russian draft decision at the UN General Assembly's Fifth Committee (Administrative and Budgetary) that would have had the Secretary-General withdraw his bulletin laying UN staff benefits for same-sex couples.¹⁶ - 2013: By decision of the Government, Bangladesh legally recognised the <i>Hijras</i> population - a South Asian feminine gender identity sometimes adopted by intersex people - as being a 'third sex' for the purposes of obtaining passport and voting.¹⁷ - Bangladesh possesses no anti-discrimination laws applicable to LGBTI people. - 2013: (Universal Periodic Review) Bangladesh rejected recommendations to decriminalise consensual same-sex sexual conduct.¹⁸ However, the government did acknowledge the existence of the LGBT population in its April 2013 Universal Periodic Review, contrary to its stance in the 2009 review, during which the foreign minister stated there were no LGBT individuals in the country. Additionally, the government allocated funds for the transgender population in the national budget. - 2009: (Universal Periodic Review) Bangladesh rejected recommendations to decriminalise consensual same-sex sexual conduct. It accepted recommendations to provide training to law enforcement on the protection of (among others) sexual minorities and to work to adopt measures to protect those people from violence: <ul style="list-style-type: none"> <i>Bangladesh accepts the recommendation concerning the human rights training of judicial officers. The judicial officers are being trained on the issue of rights of women, children and minorities. However, the specific recommendation on sexual orientation cannot be accepted. Bangladesh is a society with strong traditional and cultural values. Same-sex activity is not an acceptable norm to any community in the country. Indeed, sexual orientation is not an issue in Bangladesh. There has been no concern expressed by any quarter in the country on this. Therefore, the recommendation is out of context.</i>¹⁹

¹ The law is : http://bdlaws.minlaw.gov.bd/pdf_part.php?act_name=&vol=&id=11

² *Penal Code, 1860, s377: '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. Explanation. Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.'*

³ ILGA, 'Homophobic tendencies still abound in South Asia', (ILGA 11 February 2011) <<http://ilga.org/ilga/en/article/mQA910J1Qp>> accessed 19 July 2014

⁴ Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2014: Bangladesh*, (US Department of State 2014) <<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236634>>

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- ⁵ Kuddus, O., 'Bangladesh jails "married" lesbian couple', (*Gay Star News* 1 October 2013)
<<http://www.gaystarnews.com/article/bangladesh-jails-married-lesbian-couple011013>> accessed 19 July 2014
- ⁶ Zaman, S., 'Bangladesh opposes ICPD's LGBT rights move', (*Dhaka Tribune* 14 September 2014)
<http://www.dhakatribune.com/law-rights/2014/sep/14/bangladesh-opposes-icpd%E2%80%99s-lgbt-rights-move>
- ⁷ *Huffington Post*, 'Muhammad Yunus, Nobel Prize Winner, Accused Of Being "Un-Islamic"\ "Spreading Homosexuality"', (*Huffington Post* 25 October 2013)
<http://www.huffingtonpost.co.uk/2013/10/25/muhammad-yunus-nobel-priz_n_4162800.html> accessed 19 July 2014
- ⁸ *Tribune* Editorial, 'Decriminalising same-sex relations', (*Dhaka Tribune* 29 August 2013)
<<http://www.dhakatribune.com/editorial/2013/aug/29/decriminalising-same-sex-relations>> accessed 19 July 2014
- ⁹ Noakhali Correspondent, 'Three arrested over beating transgender to death' (bdnews24.com, 13 July 2015)
<http://bdnews24.com/bangladesh/2015/07/13/three-arrested-over-beating-transgender-to-death>
- ¹⁰ *The Daily Star*, 'Sexual minorities being harassed', (12 December 2014)
<http://www.thedailystar.net/sexual-minorities-being-harassed-54988> accessed on 5 September 2015
- ¹¹ Bureau of Democracy, *Human Rights and Labor, 'Country Reports on Human Rights Practices for 2014: Bangladesh*, (US Department of State 2014)
<<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236634>>
- ¹² Reid-Smith, T., 'Bangladesh jails 'married' lesbian couple', (*Gay Star News*, 1 October 2013),
<http://www.gaystarnews.com/article/bangladesh-jails-married-lesbian-couple011013/>
- ¹³ *Global Voices*, 'Lesbian Couple Arrested After Marrying in Secret in Bangladesh', (26 July 2013)
<http://globalvoicesonline.org/2013/07/26/lesbian-couple-arrested-after-marrying-in-secret-in-bangladesh/>
- ¹⁴ Bandhu Social Welfare Society, *Community Prosody Service and Beyond: Annual Report 2012*, (Bandhu BD July 2013) <<http://www.bandhu-bd.org/report/Annual%20Report%202012%20of%20BSWS.pdf>> accessed 19 July 2014
- ¹⁵ Sexual Rights Initiative, *Report on Bangladesh*, (Sexual Rights Initiative February 2009)
<<http://sexualrightsinitiative.com/wp-content/uploads/Bangladesh-UPR-4.pdf>> accessed 19 July 2014
- ¹⁶ Lavers, M. K., 'Bid to block spousal benefits for gay U.N. employees fails' (*Washington Blade* 24 March 2015)
<<https://www.washingtonblade.com/2015/03/24/bid-to-block-spousal-benefits-for-gay-u-n-employees-fails/>> accessed 25 October 2015
- ¹⁷ Pantha Rahman Reza, 'Bangladesh's Hijras Win Official Recognition as Separate Gender', (*Global Voices*, 13 November 2013) <<https://globalvoicesonline.org/2013/11/13/bangladeshs-hijras-win-official-recognition-as-separate-gender/>>
- ¹⁸ UNHRC, *Report of the Working Group on the Universal Periodic Review*, (8 July 2013) UN Doc A/HRC/24/12
- ¹⁹ UNHRC, *Report of the Working Group on the Universal Periodic Review*, (9 June 2009) UN Doc A/HRC/11/18/Add.1