

Afghanistan: Situation of LGBTQ+ People

This report is intended as background reference material for asylum seekers and their counsel only, to assist in their preparation of their cases. It should not be submitted directly to asylum adjudicators in the United Kingdom or United States.

The information contained in this report is current as of September 2021. It is provided as a service to users and it is therefore general and should not be considered or relied on as comprehensive or as legal advice. Nothing contained herein creates an attorney-client relationship between IRAP or any of the law firms that participated in this project and any users of this information.

Table of Contents

Research Request	3
Research Timeframe	4
Sources Consulted	5
Findings	10

Research Request

Is there recent evidence of discrimination against and persecution of lesbian, gay, bisexual, transgender and queer or questioning (“LGBTQ+”) individuals in Afghanistan?

Research Timeframe

The earliest source dates from FEBRUARY 2009 and the most recent sources date from AUGUST 2021.

Sources Consulted

All web sources were consulted in SEPTEMBER 2021.

1. International Organization

- United States Institute of Peace, Rule of Law, Governance, and Human Rights in Afghanistan, 2002 to 2016, August 29, 2017, <https://www.usip.org/publications/2017/08/rule-law-governance-and-human-rights-afghanistan-2002-2016>.
- World Health Organization (Regional Office for the Eastern Mediterranean), Afghanistan, [accessed September 17, 2021, http://www.emro.who.int/afg/programmes/hiv.html](https://www.emro.who.int/afg/programmes/hiv.html)
- Human Rights Watch, Afghan LGBT Asylum Seekers in UK Among Most Vulnerable, Feb, 26, 2017, <https://www.hrw.org/news/2017/02/26/afghan-lgbt-asylum-seekers-uk-among-most-vulnerable>.
- UNHCR, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan, Aug. 30, 2018, <https://www.refworld.org/pdfid/5b8900109.pdf> [later editions not available]
- International Lesbian, Gay, Bisexual, Trans and Intersex Association, State-Sponsored Homophobia: A World Survey of Sexual Orientation Laws: Criminalisation, Protection and Recognition, December 2020, https://ilga.org/downloads/2017/ILGA_State_Sponsored_Homophobia_2017_WEB.pdf
- International Lesbian, Gay, Bisexual, Trans and Intersex Association, *State-Sponsored Homophobia*, March 2019, https://ilga.org/downloads/ILGA_State_Sponsored_Homophobia_2019.pdf
- International Lesbian, Gay, Bisexual, Trans and Intersex Association, *State-Sponsored Homophobia*, May 2017, [ILGA_State_Sponsored_Homophobia_2017_WEB.pdf](https://ilga.org/downloads/ILGA_State_Sponsored_Homophobia_2017_WEB.pdf) [2018 not available]

2. Government Sources

- United States State Department: *Country Reports on Human Rights Practices for 2020*, 2021, <https://www.state.gov/wp-content/uploads/2021/03/AFGHANISTAN-2020-HUMAN-RIGHTS-REPORT.pdf>.
- United States State Department: *Afghanistan 2017 Human Rights Report*, 2017, <https://www.state.gov/wp-content/uploads/2019/01/Afghanistan.pdf>.

- United States Department of Justice: *Afghanistan: Sexual Minorities*, February 2009, https://www.justice.gov/sites/default/files/eoir/legacy/2013/06/11/aus_afghanistan_sexual_minorities_200902.pdf.
- UK Home Office: *Country Policy and Information Note – Afghanistan: Medical and Healthcare Provision*, December 2020, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/944061/Afghanistan.Medical_and_Healthcare_CPIN.v1.0.December_2020.pdf.
- UK Home Office: *Afghanistan: Sexual Orientation and Gender Identity*, January 2017, <https://www.justice.gov/eoir/page/file/927216/download>.
- U.S. Commission on International Religious Freedom: *Factsheet on Shari'a and LGBTI Persons*, March 2021, <https://www.justice.gov/eoir/page/file/1376876/download>.
- Australian Department of Foreign Affairs and Trade: *Country Information Report – Afghanistan*, June 2019, <https://www.dfat.gov.au/sites/default/files/country-information-report-afghanistan.pdf>.

3. NGOs and Think Tanks

- Human Rights Watch: “2021 World Report”, Feb. 2021, https://www.hrw.org/sites/default/files/media_2021/01/2021_hrw_world_report.pdf.
 - *Human Rights Watch (HRW) is an international non-governmental organization, headquartered in New York City, which seeks to protect human rights worldwide. HRW is fully independent, supported by contributions from private individuals and foundations worldwide and accepts no money from any government, directly or indirectly.*
- International Lesbian, Gay, Bisexual, Trans and Intersex Association: “State-Sponsored Homophobia: 2020 Updated Edition”, Dec. 2020, https://ilga.org/downloads/ILGA_World_State_Sponsored_Homophobia_report_global_legislation_overview_update_December_2020.pdf.
 - *International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA World) is a worldwide federation of more than 1,700 organizations from over 160 countries and territories with ECOSOC-accredited consultative status in the United Nations.*
- All Survivors Project: “Preliminary Submission to the Committee on the Rights of the Child”, Sept. 2019,

https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/AFG/INT_CRC_NGO_AFG_37238_E.docx.

- *The All Survivors Project provides research to improve the global response to ever survivors of sexual and gender-based violence in situations of conflict and displacement. The project documents cases of abuse against men and boys to supplement work on girls and women to support a global response that includes all victims of violence. It is an independent, international research project working with individuals and organizations to strengthen communities by upholding the dignity of each individual.*
- All Survivors Project: “Updated Information for the Committee on the Rights of the Child on Conflict-Related Sexual Violence Against Boys in Afghanistan, 88th Session, September 2021”, August 2021,
https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/AFG/INT_CRC_NGO_AFG_46395_E.pdf.
- European Union, European Asylum Support Office: “Country of Origin Information Report: Afghanistan Individuals Targeted Under Societal and Legal Norms”, Dec. 2017,
<https://www.easo.europa.eu/sites/default/files/publications/coi-Afghanistan-targeting-society.pdf>.
 - *The European Asylum Support Office (EASO), established May 19, 2010 is an independent body of the European Union. The EASO plays a key role in the concrete further development of the Common European Asylum policy.*
- Swedish International Development Cooperation Agency: “The Rights of LGBTI Persons in Afghanistan”, Nov. 2014,
<http://www.sida.se/globalassets/sida/eng/partners/human-rights-based-approach/lgbti/rights-of-lgbt-persons-afghanistan.pdf>
 - *Swedish International Development Cooperation Agency (SIDA) is a government agency of the Swedish Ministry for Foreign Affairs, and is responsible for organization of the bulk of Sweden’s official development assistance to developing countries.*
- Human Rights Watch, “‘I Would Like Four Kids – If We Stay Alive’, Women’s Access to Health Care in Afghanistan”, May 2021,
https://www.ecoi.net/en/file/local/2051029/afghanistan0521_web.pdf.
- All Survivors Project, Youth Health & Development Organization: “Enhancing Survivor-Centered Healthcare Response for Male Victims/Survivors of Sexual Violence in Afghanistan”, Mar. 2021,
<https://reliefweb.int/sites/reliefweb.int/files/resources/ASP-YHDO-Report-Afghanistan-March-2021.pdf>.

- *The Youth Health and Development Organization (YHDO) is a non-governmental and not-for-profit organization in Afghanistan registered with the Ministry of Economy of the Islamic Republic of Afghanistan.*
- United States Commission on International Religious Freedom: “Factsheet: The Use of Shari’a as Religious Justification for Capital Punishment Against LGBTI Persons”, Mar. 2021, <https://www.uscirf.gov/sites/default/files/2021-03/2021%20Factsheet%20-%20Sharia%20and%20LGBTI.pdf>.
 - *The United States Commission on International Religious Freedom’s (USCIRF’s) Mission is to advance international freedom of religion or belief, by independently assessing and unflinchingly confronting threats to this fundamental right.*
- European Union, European Asylum Support Office: “Common Guidance: Afghanistan, Common Analysis and Guidance Note”, Dec. 2020, https://easo.europa.eu/sites/default/files/Country_Guidance_Afghanistan_2020_0.pdf.
- Freedom House: “Freedom in the World 2019 – Afghanistan”, Feb. 2019, <https://freedomhouse.org/report/freedom-world/2019/afghanistan>.
 - *Freedom House is a US-based bipartisan non-governmental organization that conducts research and advocacy on democracy, political freedom and human rights.*

4. Media

- “Afghanistan LGBT community living under threat of death,” BBC (7 October 2016), <http://www.bbc.com/news/world-asia-36884732>
- “Gay Afghan men face exile or marriage in conformist masculine society,” The Guardian (10 September 2012), <https://www.theguardian.com/commentisfree/2012/sep/10/gay-afghan-men-exile-or-marriage>
- “Fear, secrecy and danger a way of life for Afghan gays,” Associated Press (5 November 2016), <https://apnews.com/456fa1a71d004d539edce40eff6efb46/fear-secrecy-and-danger-way-life-afghan-gays>
- “ISIS militants set up dates with gay men to expose them for execution,” Khaama Press (10 May 2015), <http://www.khaama.com/isis-militants-set-up-dates-with-gay-men-to-expose-them-for-execution-9415>

- “Afghan man admits his homosexuality,” Khaama Press (26 October 2013), <http://www.khaama.com/afghan-gay-comes-out-of-closet-3013>
- “As Russia Runs For the Closet, Afghanistan Comes Out,” Out Magazine (21 February 2014), <https://www.out.com/news-opinion/2014/02/21/russia-runs-closet-afghanistan-comes-out>
- “After Orlando attack, prevailing view is there are ‘not any gays’ in Afghanistan,” Washington Post (14 June 2016), https://www.washingtonpost.com/world/asia_pacific/after-brutal-attack-prevailing-view-is-there-are-not-any-gays-in-afghanistan/2016/06/14/daabf704-31a5-11e6-ab9d-1da2b0f24f93_story.html?utm_term=.65a974afa5d0
- “‘A virtual death sentence’: Gay Afghans brace for uncertain future under Taliban”, NBC News (29 Aug 2021), <https://www.nbcnews.com/nbc-out/out-news/-virtual-death-sentence-gay-afghans-brace-uncertain-future-taliban-rcna1779>
- “LGBT in Afghanistan: ‘I could be killed on the spot’”, BBC News (20 Aug 2021), <https://www.bbc.com/news/newsbeat-58271187>.
- “Taliban-controlled Afghanistan will ‘crush gay men to death with 10ft walls’, warns judge”, Pink News (24 Jul 2021), <https://www.pinknews.co.uk/2021/07/14/taliban-afghanistan-gay/>.
- “Taliban cut Afghan man’s body into pieces to ‘show what they do with gay people’”, Pink News (25 Aug 2021), <https://www.pinknews.co.uk/2021/08/25/taliban-afghanistan-gay-lgbt/>.
- “Gay Afghan man raped and beaten by cruel Taliban fighters after desperately trying to flee”, Pink News (20 Aug 2021), <https://www.pinknews.co.uk/2021/08/30/taliban-rape-gay-afghanistan-lgbt/>.
- “LGBT+ Afghans desperate to escape amid Taliban takeover”, Reuters (22 Aug 2021), <https://www.reuters.com/article/us-afghanistan-lgbt-refugees/lgbt-afghans-desperate-to-escape-amid-taliban-takeover-idUSKBN2FN0FA>.

Findings

The findings in this report are presented beginning with international organizations sources, moving to government sources and ending with NGOs and media outlet sources.

1. LGBTQ+ people are reportedly persecuted and killed by the Taliban/Afghan government

According to sources, LGBTQ+ people in Afghanistan face significant violence and persecution. Discrimination manifests through state-sanctioned channels, like Afghanistan’s 2018 penal code that criminalizes same-sex relations, and via extrajudicial enforcement, given widespread homophobic sentiment in the country.

Over the years, discrimination against the Afghani LGBTQ+ community has solidified into black letter law. While Article 427 of the 1976 penal code criminalized “pederasty,” it did not elaborate on this term. By contrast, the 2018 code explicitly prohibits same-sex relations for lesbians and gay men, dictating imprisonment for each. Under both the penal code and Shari’a law, same-sex acts are also punishable by death, and the Taliban actively executed members of the LGBTQ+ community between 1996 and 2001.

In society, LGBTQ+ Afghans are subject to discrimination, assaults, threats, rape and blackmail. While homosexuality is taboo, *bacha bazi*¹ is a traditional cultural practice that is not widely perceived as homosexual behavior. It is criminalized under the 2018 penal code, but because *bacha bazi* is generally practiced by powerful, armed actors, victims as well as their families have little recourse to prosecute their assailants.

- “Afghan and international civil society organizations with expertise in international humanitarian and human rights law, including monitoring mechanisms, should work to strengthen coordination and expand outreach at the local and national level. Concepts and practices embodied in public international law are often not easily understood or implemented, and mechanisms to enhance compliance need to be tailored to the local context if they are to be effective. Prioritizing knowledge-building and practical solutions at the community level could make these efforts both more palatable and more operational over time.
 - United States Institute of Peace, Rule of Law, Governance, and Human Rights in Afghanistan, 2002 to 2016, August 29, 2017, <https://www.usip.org/publications/2017/08/rule-law-governance-and-human-rights-afghanistan-2002-2016>.

¹ *Bacha bazi* refers to the practice of adult males forcing young boys to dance in female attire for them, after which sexual abuse often occurs. For more information, see Australian Department of Foreign Affairs and Trade: *Country Information Report – Afghanistan*, June 2019, <https://www.dfat.gov.au/sites/default/files/country-information-report-afghanistan.pdf>.

- Inclusive planning and accountable implementation of human rights reforms need to be prioritized, within both Afghan government and international community activities, particularly those affecting women and children. **Stated human rights priorities have been regularly negotiated away in exchange for other agreements and political wins. Commitments on paper, including legislation, are seldom fully implemented and are often overshadowed or undermined by other political and security priorities. This has led not only to marginal and uneven progress, but also to the recent diminution of hard-won gains.** In reviewing and revising national reform agendas, the international community needs to better coordinate a unified vision on human rights priorities, and ensure that measurable progress against defined benchmarks are hard cast. The uneven progress to date stems from a range of complex political, security, and ideological challenges, but human rights protections need to be reframed as earnest priorities rather than tools for negotiation if they are to be meaningful and ensured. Afghan civil society and media also need to play an expanded role in identifying and prioritizing needs, and can assist in tailoring implementation plans within urban, rural, local, and national contexts. (p. 42)
 - United States Institute of Peace, Rule of Law, Governance, and Human Rights in Afghanistan, 2002 to 2016, August 29, 2017, <https://www.usip.org/publications/2017/08/rule-law-governance-and-human-rights-afghanistan-2002-2016>.
- The WHO fact sheet linked below lists the following as “programme risks and challenges” for addressing HIV/AIDs:
 - Limited availability of skilled health staff to support PLHIV.
 - Low awareness of HIV among general and key populations, cultural barriers to disseminating information and scaling up prevention.
 - **Stigma towards the disease among the general population and health workers, impeding access to health facilities for testing and treatment.**
 - Lack of HIV testing and counselling services and anti-retroviral therapy services in all provinces.
 - World Health Organization (Regional Office for the Eastern Mediterranean), Afghanistan, [accessed September 17, 2021, http://www.emro.who.int/afg/programmes/hiv.html](http://www.emro.who.int/afg/programmes/hiv.html)
- **“In Afghanistan, same-sex relations are punishable by 5 to 15 years in prison under a law that bans all sex between individuals not married to each other. Afghan law specifies that marriage is between a man and a woman. Under Sharia, or Islamic law, the punishment for sex outside marriage could be a death sentence.** Because the evidentiary requirements of this law are difficult to meet, this punishment hasn’t been applied by Afghan courts since 2001.”

- Human Rights Watch, Afghan LGBT Asylum Seekers in UK Among Most Vulnerable, Feb, 26, 2017, <https://www.hrw.org/news/2017/02/26/afghan-lgbt-asylum-seekers-uk-among-most-vulnerable>.
- **“Afghan law provides no protection against discrimination or harassment on the basis of sexual orientation or gender identity. Groups working to protect LGBT people operate underground to avoid being shut down or attacked.”**
 - Human Rights Watch, Afghan LGBT Asylum Seekers in UK Among Most Vulnerable, Feb, 26, 2017, <https://www.hrw.org/news/2017/02/26/afghan-lgbt-asylum-seekers-uk-among-most-vulnerable>.
- **“Members of the LGBT community in Afghanistan can only hope to escape abuse if they deny and suppress their sexual identities, marry as arranged by their families, have sex only with spouses, have children, and never have a sexual relationship outside that norm. But if they do, they risk arrest, prosecution, and violence from their families, the larger community and the government.”**
 - Human Rights Watch, Afghan LGBT Asylum Seekers in UK Among Most Vulnerable, Feb, 26, 2017, <https://www.hrw.org/news/2017/02/26/afghan-lgbt-asylum-seekers-uk-among-most-vulnerable>.
- “Consensual same-sex sexual acts are illegal in Afghanistan and are punishable by imprisonment of up to two years under the new Afghan Penal Code. Under Sharia law, the maximum sentence for same-sex relations is the death **penalty**, but no death sentences for same-sex relations are reported to have been passed by the judiciary since the fall of the Taliban.
 - UNHCR, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan, Aug. 30, 2018, <https://www.refworld.org/pdfid/5b8900109.pdf> [later editions not available]
- **Social taboos around homosexuality remain strong. Reportedly, gay men and boys, and those perceived to be gay, have limited access to health services and are being dismissed from their jobs because of their sexual orientation.** Individuals of diverse sexual orientations and gender identities (SOGI) are reported to face discrimination and violence, including at the hands of the authorities, family and community members, as well as AGEs. **Overall, “homophobic views and violence against LGBT groups in Afghanistan are pervasive”.** The police reportedly fail to provide protection to individuals of diverse SOGI; instead there are reports of police officers subjecting individuals of diverse SOGI to harassment, violence (including rape), and

arrest and detention on the basis of their real or perceived sexual orientation. Organizations devoted to protecting the freedom of individuals of diverse SOGI reportedly remain underground as they cannot be legally registered. Given the pervading social taboos related to same-sex relations, there is little information available on the treatment of individuals of diverse SOGI in Afghanistan. What little information there is pertains to gay men; **the situation of lesbians and of bisexual individuals is largely undocumented. Similarly, little is known about the situation of transgender individuals in Afghanistan. The absence of information should not be taken to mean that there is no risk for individuals of diverse SOGI.**” (pp. 88-89).

- UNHCR, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan, Aug. 30, 2018, <https://www.refworld.org/pdfid/5b8900109.pdf> [later editions not available]
- “There are also five additional UN Member States where certain sources indicate that the death penalty may be imposed for consensual same-sex conduct, but where there is less legal certainty on the matter. These countries are: Afghanistan, Pakistan, Qatar, Somalia (including Somaliland) and the United Arab Emirates.”
 - International Lesbian, Gay, Bisexual, Trans and Intersex Association, State-Sponsored Homophobia: A World Survey of Sexual Orientation Laws: Criminalisation, Protection and Recognition, December 2020, https://ilga.org/downloads/2017/ILGA_State_Sponsored_Homophobia_2017_WEB.pdf
- “[M]any Afghans rely on traditional tribal dispute resolution mechanisms, and parallel justice systems overseen by insurgent groups. This is largely due to the Afghan judiciary apparently being “underfunded, understaffed, inadequately trained, ineffective, and vulnerable to threats, bias, political influence, and pervasive corruption”. Further, parallel justice structures are often present in areas controlled by insurgent groups “where people had very limited access to formal judicial mechanisms.” **While there is no recorded information on how traditional justice mechanisms apply to consensual same-sex conduct, parallel justice structures run by insurgent groups, including the Taliban, may impose capital punishment and other forms of severe extrajudicial punishment for consensual same-sex conduct. These punishments are typically based on the group’s strict interpretation of Sharia law.**
 - International Lesbian, Gay, Bisexual, Trans and Intersex Association, State-Sponsored Homophobia: A World Survey of Sexual Orientation Laws: Criminalisation, Protection and Recognition, December 2020, https://ilga.org/downloads/2017/ILGA_State_Sponsored_Homophobia_2017_WEB.pdf

- **“The potential use of the death penalty to punish same-sex sexual conduct has received limited attention from international bodies. In 2017, the Committee Against Torture urged Afghanistan to “consider taking measures for an immediate moratorium on executions and a commutation of sentences”, in light of the high number of prisoners on death row.** It did not specifically mention the use of the death penalty as a punishment for consensual same-sex sexual conduct. Further, on the subject of parallel judicial mechanisms imposing extrajudicial punishments, the Committee Against Torture noted in 2017 that sentences imposed by these mechanisms for moral crimes, including the death sentence, may amount to torture or cruel, inhuman or degrading treatment or punishment. The UN Assistance Mission in Afghanistan stated that extrajudicial punishments imposed by these parallel justice mechanisms are illegal under the laws of Afghanistan, constitute criminal acts, and may amount to war crimes. Afghanistan did not receive any SOGIESC-related recommendations during its third UPR cycle in January 2019. During its second UPR cycle in 2014, Norway urged Afghanistan to decriminalise consensual same-sex sexual relations, which Afghanistan noted (i.e., did not accept).” (p. 41)
 - International Lesbian, Gay, Bisexual, Trans and Intersex Association, *State-Sponsored Homophobia: A World Survey of Sexual Orientation Laws: Criminalisation, Protection and Recognition*, December 2020, https://ilga.org/downloads/2017/ILGA_State_Sponsored_Homophobia_2017_WEB.pdf
- “Articles 32 and 33 of the Afghanistan Press Law (1965) prohibit the use of the press to incite others to commit an offense or to “seek depravity” (which includes the publication of articles which tend to debase public morals). Additionally, article 31(1) of the Law on Mass Media (2006) also prohibits the publication of matters “contrary to principles of Islam”. In 2014, the Afghan government threatened to prosecute a gay activist for using social media to advocate for LGBT issues. In 2009, it was reported that a memoir by a gay Afghan man could not be distributed in the country. (p. 207)
 - International Lesbian, Gay, Bisexual, Trans and Intersex Association, *State-Sponsored Homophobia*, March 2019, https://ilga.org/downloads/ILGA_State_Sponsored_Homophobia_2019.pdf
- **A new Penal Code came into force on 14 February 2018. While the new legislation was welcomed as “a milestone in the country’s criminal justice reform”, it explicitly criminalises same-sex sexual conduct though the punishment has been reduced.** Previously, Article 427 of the 1976 Penal Code imposed a long imprisonment term for the offence of “pederasty”. Furthermore, all sexual contact outside marriage was punishable with a maximum of the death penalty and a high-profile Islamic scholar has claimed that “there was broad consensus amongst scholars that execution was the appropriate punishment if homosexual acts could be proven”. **Notably, the practice of the practice of**

- bachebazi - which involves the sexual abuse of underage boys - is now explicitly criminalised under Chapter 5 of Book 4 of the new Penal Code. (p. 429)**
- International Lesbian, Gay, Bisexual, Trans and Intersex Association, *State-Sponsored Homophobia*, March 2019, https://ilga.org/downloads/ILGA_State_Sponsored_Homophobia_2019.pdf
 - **LGBT people face significant violence and discrimination from the State, their own families, and society at large. However, there is sparse evidence, anecdote and data being reported on the situations of sexual and gender minorities in the country, and there are no SOGI advocacy organisations or networks known of. In 2004, an American adviser to the Afghan government was purportedly arrested for consensual same-sex sexual acts with a local man. In 2011, a video of police officers harassing a transgender person was published online. Police violence is not uncommon, which includes the use of “honey traps” to arrest persons because of their perceived sexual orientation. LGBT people have also been victims of “honour killing” by their families.** Such a practice is perpetuated by Article (p. 430)
 - International Lesbian, Gay, Bisexual, Trans and Intersex Association, *State-Sponsored Homophobia*, March 2019, https://ilga.org/downloads/ILGA_State_Sponsored_Homophobia_2019.pdf
 - Although the Afghan Penal Code does not contain any explicit provisions on the criminality of consensual same-sex sexual acts. Article 130 of the Constitution does allow recourse to be made to Sharia law, which prohibits same-sex sexual activity in general, and indeed any sexual contact outside marriage. **Afghanistan’s Sharia law criminalises same-sex sexual acts with a maximum of the death penalty. A BBC article of late-2016 confirms that LGBT people live in constant fear of this or other severe persecutory penalties and they are forced to hide their identities.** A high-profile scholar is quoted “there was broad consensus amongst scholars that execution was the appropriate punishment if homosexual acts could be proven”, and this is consistent with a history of such repression in Afghanistan. **In Afghan legal terminology “pederasty” appears to refer to intercourse between males regardless of age. The fact that paedophilia - or sexual relations with persons under the age of consent - falls under subsection 2(a) of article 427 indicates that this is the case.** Terming sexual acts between adult men “pederasty” has previously not been uncommon; this occurred for example in the translations of the Criminal Codes of Albania (1977) and Latvia (1933), and in the old Russian legal tradition a “pederast” usually referred to a male who had anal intercourse with another male, regardless of age. **Further, the traditional practice of keeping Bacha Bazi (teenage boys typically aged 14-18) for sexual use and as symbols of status amongst older men is reported to be currently widespread.** In its 2nd cycle UPR in January

2014, the only recommendation regarding SOGI that Afghanistan received was not accepted ('noted'), Norway called for the "repeal the provisions of the penal code that criminalise sexual relations between consenting adults of the same sex". No mention was made of the death penalty in relation to same-sex behaviour directly, although ten recommendations calling for the abolition of the death penalty in line with civil and political rights were made: under international human rights law these necessarily include SOGI in their scope. A Joint Submission (SRI, IFPP, and AFGA) made a reference to men who have sex with men (MSM), and this appears to be the only mention of SOGI-related material through Afghanistan's entire 2nd cycle UPR process. Its next review is October 2018. Although a senior member of Afghanistan Independent Human Rights Commission attended the Workshop on the Role of NHRIs in Promoting and Protecting the Rights and Health of LGBTI in Asia and the Pacific, February 2015, but to date there has been no mention of sexual orientation or SOGI in the work of that Commission. (p. 121)

- International Lesbian, Gay, Bisexual, Trans and Intersex Association, *State-Sponsored Homophobia*, May 2017, [ILGA_State_Sponsored_Homophobia_2017_WEB.pdf](#) [2018 not available]
- **"In February 2018, Afghanistan adopted a new penal code that explicitly criminalizes consensual same-sex relations.** The penal code punishes musaheqeh (sexual relations between women) with up to one year in prison. It punishes sodomy, defined as 'penetration of a male sexual organ into a female or a male anus,' with up to two years in prison. Under the previous penal code, 'pederasty,' not further defined, was criminalized, as was all sex outside of marriage (zina)." (p. 22)
 - International Lesbian, Gay, Bisexual, Trans and Intersex Association: "State-Sponsored Homophobia: 2020 Updated Edition", Dec. 2020, https://ilga.org/downloads/ILGA_World_State_Sponsored_Homophobia_report_global_legislation_overview_update_December_2020.pdf.
- "There is little in terms of evidence, anecdotes, and data reported on the situation of sexual and gender minorities in the country, **and there are no known SOGIESC advocacy organisations or networks. In particular, there is a lack of publicly available information on the impact of Afghanistan's recently enacted Penal Code (APC 2017) on the imposition of the death penalty for consensual same-sex conduct.**" (p. 39)
 - International Lesbian, Gay, Bisexual, Trans and Intersex Association: "State-Sponsored Homophobia: 2020 Updated Edition", Dec. 2020, https://ilga.org/downloads/ILGA_World_State_Sponsored_Homophobia_report_global_legislation_overview_update_December_2020.pdf.

- “[M]any Afghans rely on traditional tribal dispute resolution mechanisms, and parallel justice systems overseen by insurgent groups. This is largely due to the Afghan judiciary apparently being ‘underfunded, understaffed, inadequately trained, ineffective, and vulnerable to threats, bias, political influence, and pervasive corruption.’” (p. 39) (citing to Australian Government Department of Foreign Affairs and Trade: *DFAT Country Information Report: Afghanistan*, 27 June 2019, para 5.17).
 - International Lesbian, Gay, Bisexual, Trans and Intersex Association: “State-Sponsored Homophobia: 2020 Updated Edition”, Dec. 2020, https://ilga.org/downloads/ILGA_World_State_Sponsored_Homophobia_report_global_legislation_overview_update_December_2020.pdf.
- “Further, on the subject of parallel judicial mechanisms imposing extrajudicial punishments, the Committee Against Torture noted in 2017 that sentences imposed by these mechanisms for moral crimes, including the death sentence, may amount to torture or cruel, inhuman or degrading treatment or punishment. **The UN Assistance Mission in Afghanistan stated that extrajudicial punishments imposed by these parallel justice mechanisms are illegal under the laws of Afghanistan, constitute criminal acts, and may amount to war crimes.**” (p. 41)
 - All Survivors Project: “Preliminary Submission to the Committee on the Rights of the Child”, Sept. 2019, https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/AFG/INT_CRC_NGO_AFG_37238_E.docx.
- **“Poverty, displacement and unaccompanied status creates a vulnerability for sexual violence against men and boys.”**
 - All Survivors Project: “Preliminary Submission to the Committee on the Rights of the Child”, Sept. 2019, https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/AFG/INT_CRC_NGO_AFG_37238_E.docx.
- “Verification of cases of sexual violence against boys remains very challenging due to security and access constraints. **Cases are under-reported due to fear of reprisals, punishments on self and family and fear of bringing shame on families.** It is likely that cases are also under-reported due to a lack of knowledge of legal developments (criminalizing bacha bazi and other forms of sexual abuse).”
 - All Survivors Project: “Preliminary Submission to the Committee on the Rights of the Child”, Sept. 2019, https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/AFG/INT_CRC_NGO_AFG_37238_E.docx.

- “Despite some progress in investigating and prosecuting individual cases of *bacha bazi* and/or [conflict-related sexual violence] against boys, implementation of relevant laws and politics remains weak and the majority of perpetrators to these and other human rights violations against children continue to enjoy impunity. According to credible sources, the Afghan authorities have not investigated or prosecuted many high-level government officials or members of the security forces despite continuing reports of complicity in *bacha bazi*....**Lack of adequate protection, including an effective victims/witness protection program, means that victims/survivors cannot safely report their experience to the authorities.**” (p. 2)
 - All Survivors Project: “Updated Information for the Committee on the Rights of the Child on Conflict-Related Sexual Violence Against Boys in Afghanistan, 88th Session, September 2021”, August 2021, https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/AFG/INT_CRC_NGO_AFG_46395_E.pdf.

- **“Continued impunity for perpetrators and lack of other effective measures to enforce laws and policies prohibiting *bacha bazi* means that the practice is still believed to be widespread, exposing boys to the risk of sexual violence and other human rights violations.** The pandemic-related health crisis and deteriorating security situation in Afghanistan has further exacerbated these risks including because of higher numbers of out-of-school children due to school closures; lost incomes resulting in greater socio-economic pressures on families; intensified conflict driving increased levels of forced displacement; and the further weakening of child protection mechanisms and associated activities as a result of the increasingly hostile operating environment and health concerns.” (pp. 3-4)
 - All Survivors Project: “Updated Information for the Committee on the Rights of the Child on Conflict-Related Sexual Violence Against Boys in Afghanistan, 88th Session, September 2021”, August 2021, https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/AFG/INT_CRC_NGO_AFG_46395_E.pdf.

- “There is no publicly visible Afghan LGBT community, according to sources. **Organisations involved with support to LGBT people cannot operate openly and there are none specifically campaigning for LGBT people.**” (pp. 66-67)
 - European Union, European Asylum Support Office: “Country of Origin Information Report: Afghanistan Individuals Targeted Under Societal and Legal Norms”, Dec. 2017, <https://www.easo.europa.eu/sites/default/files/publications/coi-Afghanistan-targeting-society.pdf>.

- **“LGBTI persons in Afghanistan have a very narrow space to live their lives freely.** Common law and sharia law criminalise same-sex sexual relations, and the acceptance of non-conforming sexual orientation and gender identity is low. The situation of gender division and the oppression of women are obstacles for all genders, but especially lesbian women, to find spaces to live freely. Homosexuality is often associated with sexual abuse, paedophilia and prostitution. The inability to differentiate between consensual sex between adults and sexual abuse is common and trickles down into the nation's legal system. **Conservative values and a high rate of violence by family members towards LGBTI persons who break gender roles are obstacles for those who have nonconforming sexuality or gender expressions, as well as women and men who oppose arranged marriages or domestic violence.”** (p. 1)
 - Swedish International Development Cooperation Agency: “The Rights of LGBTI Persons in Afghanistan”, Nov. 2014, <http://www.sida.se/globalassets/sida/eng/partners/human-rights-based-approach/lgbti/rights-of-lgbt-persons-afghanistan.pdf>

- **“The Constitution stipulates that Afghanistan is an Islamic republic, so it is possible for LGBT people in Afghanistan to be charged with violating Sharia law.** This could happen in lieu of, or in addition to charges being brought under the penal code. Sharia law based punishment is more likely to occur in isolated, rural communities. **In the cities, persons convicted of homosexuality are generally sentenced to prison.”** (p. 1)
 - Swedish International Development Cooperation Agency: “The Rights of LGBTI Persons in Afghanistan”, Nov. 2014, <http://www.sida.se/globalassets/sida/eng/partners/human-rights-based-approach/lgbti/rights-of-lgbt-persons-afghanistan.pdf>

- **“Almost none of the information that should be taught to all children as part of comprehensive sexuality education is included in Afghanistan’s national curriculum.** At the high school level there is brief mention of reproductive anatomy and biology, but even for children who reach this grade level – and most children, especially girls, never reach high school – teachers often skip that material...Other essential topics – such as health relationships, consent, menstruation and menstrual hygiene management, contraception and family planning, and lesbian, gay, bisexual and transgender (LGBT) concerns – are entirely absent.” (p. 36)
 - Human Rights Watch, “‘I Would Like Four Kids – If We Stay Alive’, Women’s Access to Health Care in Afghanistan”, May 2021, https://www.ecoi.net/en/file/local/2051029/afghanistan0521_web.pdf.

- **“Almost all of the participants interviewed for the research recognized that perpetrators of sexual violence against men and boys, particularly *bacha bazi*, are often armed actors, including government and non-government armed actors and armed warlords.”** (p. 31)
 - All Survivors Project, Youth Health & Development Organization: “Enhancing Survivor-Centered Healthcare Response for Male Victims/Survivors of Sexual Violence in Afghanistan”, Mar. 2021, <https://reliefweb.int/sites/reliefweb.int/files/resources/ASP-YHDO-Report-Afghanistan-March-2021.pdf>.
- **“Although no official death sentences have been handed down since the end of Taliban rule in 2001, interpretations of Shari’a continued to be imposed through various stakeholders (i.e., religious leaders, village elders, and anti-state elements) in village and district settings where there is a judicial vacuum.”** (p. 3)
 - United States Commission on International Religious Freedom: “Factsheet: The Use of Shari’a as Religious Justification for Capital Punishment Against LGBTI Persons”, Mar. 2021, <https://www.uscirf.gov/sites/default/files/2021-03/2021%20Factsheet%20-%20Sharia%20and%20LGBTI.pdf>.
- **In February 2018, the Afghan Penal Code was revised with several explicit provisions that affect the LGBTI community, particularly Sections 645-650 of Book 4, which allow for the imposition of the death sentence for same-sex sexual relations.** While in power, the Taliban allegedly executed homosexuals regularly. (p. 3)
 - United States Commission on International Religious Freedom: “Factsheet: The Use of Shari’a as Religious Justification for Capital Punishment Against LGBTI Persons”, Mar. 2021, <https://www.uscirf.gov/sites/default/files/2021-03/2021%20Factsheet%20-%20Sharia%20and%20LGBTI.pdf>.
- **“The LGBTI community in Afghanistan continues to face significant violence from the state and society at large.”** (p. 3)
 - United States Commission on International Religious Freedom: “Factsheet: The Use of Shari’a as Religious Justification for Capital Punishment Against LGBTI Persons”, Mar. 2021, <https://www.uscirf.gov/sites/default/files/2021-03/2021%20Factsheet%20-%20Sharia%20and%20LGBTI.pdf>.
- **“Both the Penal Code and in the *Sharia*, same-sex activity is punishable, including by death penalty. Although the Afghan State has not implemented**

- the death penalty for consensual same-sex acts between adults in private, imprison and police harassment, including robbing and rape of gay men, is reported.”** (p. 82)
- European Union, European Asylum Support Office: “Common Guidance: Afghanistan, Common Analysis and Guidance Note”, Dec. 2020, https://easo.europa.eu/sites/default/files/Country_Guidance_Afghanistan_2020_0.pdf.
 - **“LGBTIQ individuals also face a threat by their family and society. Same-sex practices remain hidden and are highly stigmatized if mentioned publicly. Identifying as having a sexual orientation or identity outside the expected norms of heterosexuality is a societal taboo and is seen as un-Islamic. Sources report discrimination, including in health services and employment, assaults, threats, rape, blackmail, and arrest.”** (p. 82)
 - European Union, European Asylum Support Office: “Common Guidance: Afghanistan, Common Analysis and Guidance Note”, Dec. 2020, https://easo.europa.eu/sites/default/files/Country_Guidance_Afghanistan_2020_0.pdf.
 - **“Although Afghanistan has traditions of a ‘third gender’, where individuals identify outside categories of male and female, these people are not legally recognized and function only at the margins of society.”** (p. 82)
 - European Union, European Asylum Support Office: “Common Guidance: Afghanistan, Common Analysis and Guidance Note”, Dec. 2020, https://easo.europa.eu/sites/default/files/Country_Guidance_Afghanistan_2020_0.pdf.
 - **“The acts to which LGBTIQ individuals could be exposed are of such severe nature that they would amount to persecution (e.g., rape, execution, killings).”** (p. 82)
 - European Union, European Asylum Support Office: “Common Guidance: Afghanistan, Common Analysis and Guidance Note”, Dec. 2020, https://easo.europa.eu/sites/default/files/Country_Guidance_Afghanistan_2020_0.pdf.
 - **“The State could be considered an actor of persecution.** Persecution could also be by their family and/or the society in general, as there is a low societal tolerance in Afghanistan for individuals with sexual or gender identities deviating from the ‘norm’.” (p. 82)

- European Union, European Asylum Support Office: “Common Guidance: Afghanistan, Common Analysis and Guidance Note”, Dec. 2020, https://easo.europa.eu/sites/default/files/Country_Guidance_Afghanistan_2020_0.pdf.
- **“In the case of LGBTIQ applicants, in general, well-founded fear of persecution would be substantiated.”** (p. 83)
 - European Union, European Asylum Support Office: “Common Guidance: Afghanistan, Common Analysis and Guidance Note”, Dec. 2020, https://easo.europa.eu/sites/default/files/Country_Guidance_Afghanistan_2020_0.pdf.
- **“There is no legal protection for LGBT (lesbian, gay, bisexual, and transgender) people, who face societal disapproval and abuse by police. Same-sexual activity is considered illegal under the penal code and Sharia.”** (p. F4)
 - Freedom House: “Freedom in the World 2019 – Afghanistan”, Feb. 2019, <https://freedomhouse.org/report/freedom-world/2019/afghanistan>.
- **““There are lots of lesbian women but they can't talk about it openly,” Zainab says. “In Afghanistan, being lesbian is seen as un-Islamic. If people found out, the result would be death. My family must never know.”**
 - “Afghanistan LGBT community living under threat of death,” BBC (7 October 2016), <http://www.bbc.com/news/world-asia-36884732>
- **“The fear of rejection and reprisals, even death is shared by all the Afghans who spoke to the BBC for this report. They also share the problem of family pressure to get married to a partner from the opposite sex and conform to the norms of traditional Afghan society.”**
 - “Afghanistan LGBT community living under threat of death,” BBC (7 October 2016), <http://www.bbc.com/news/world-asia-36884732>
- **““In Afghanistan homosexuality is seen as shocking, as a negative phenomenon. If we are discovered, perhaps we could even get hanged,” he said.”**
 - “Afghanistan LGBT community living under threat of death,” BBC (7 October 2016), <http://www.bbc.com/news/world-asia-36884732>
- **““Islamic law allows only one form of sexual relationship and that is between an adult man and a woman when they are married,” Dr Shah told the BBC. “If two young boys announce that they are gay and want to have a gay relationship, it will outrage people; there will be people who might really want to kill them.”**”

- “Afghanistan LGBT community living under threat of death,” BBC (7 October 2016), <http://www.bbc.com/news/world-asia-36884732>
- “Prominent Afghan cleric Shams-ul Rahman told the BBC there was broad consensus amongst scholars that execution was the appropriate punishment if homosexual acts could be proven. "An old wall should fall on them and they should be killed in the harshest of manners," he said.”
 - “Afghanistan LGBT community living under threat of death,” BBC (7 October 2016), <http://www.bbc.com/news/world-asia-36884732>
- **“After all, if an Afghan man is outed as a homosexual (sometimes it's enough to just be labelled gay), he is considered a disgrace to his family and runs the risk of becoming a victim of "honour killing".”**
 - “Gay Afghan men face exile or marriage in conformist masculine society,” The Guardian (10 September 2012), <https://www.theguardian.com/commentisfree/2012/sep/10/gay-afghan-men-exile-or-marriage>
- “Family is king in Afghanistan – a mini-mafia structure that rules over life and death, providing protection for those who comply with its rules and punishing those who dare to stray from the rules. **To be gay and Afghan means to live life in perpetual fear of discovery and betrayal, a paranoid existence spent in continuous terror of forced outing.**”
 - “Gay Afghan men face exile or marriage in conformist masculine society,” The Guardian (10 September 2012), <https://www.theguardian.com/commentisfree/2012/sep/10/gay-afghan-men-exile-or-marriage>
- “For Hamid Zaher, the first openly gay Afghan man, leading the fake, pretend life of a married heterosexual man was simply out of question. He fled Afghanistan, and endured years of horrific hardship in Iran and Turkey in order to escape the tyranny of Afghan conformism.”
 - “Gay Afghan men face exile or marriage in conformist masculine society,” The Guardian (10 September 2012), <https://www.theguardian.com/commentisfree/2012/sep/10/gay-afghan-men-exile-or-marriage>
- “To be homosexual in Afghanistan is to live in fear. Naveed and Rameen, young gay men in the capital Kabul have lost count of the number of times they’ve been lured into dangerous situations on what they believed to be dates.” **Both men describe being robbed, beaten up and blackmailed, and receiving death threats. They’ve even eluded police “honey traps” that could have seen them thrown in prison without charge, simply on suspicion of being gay.**”

- “Fear, secrecy and danger a way of life for Afghan gays,” Associated Press (5 November 2016), <https://apnews.com/456fa1a71d004d539edce40eff6efb46/fear-secrecy-and-danger-way-life-afghan-gays>
- “They know they could be killed, with impunity, if they reveal their sexuality. Rameen, 31, tells the story of his friend, Zabi, who was killed by his family after coming out as gay, a so-called “honor killing” usually reserved for young women. **“He was shaming the family by being open about it. They stabbed him so many times,”** Rameen said. **“It was a warning for us, for other gays. Now we keep to ourselves; we live a hidden life. And a hidden life is no life at all.”**
 - “Fear, secrecy and danger a way of life for Afghan gays,” Associated Press (5 November 2016), <https://apnews.com/456fa1a71d004d539edce40eff6efb46/fear-secrecy-and-danger-way-life-afghan-gays>
- **“The Islamic State of Iraq and Syria (ISIS) terrorist group has formed an undercover male-only squads to set up dates with the gay men so they can lure them to their deaths.** According to the sources within the territory controlled by the ISIS militants, the special brigades of young fighters in the Hisbah religious police are using the honey trap tactic.”
 - “ISIS militants set up dates with gay men to expose them for execution,” Khaama Press (10 May 2015), <http://www.khaama.com/isis-militants-set-up-dates-with-gay-men-to-expose-them-for-execution-9415>
- “This comes as extremists belonging to the Islamic State of Iraq and Syria (ISIS) terrorist group executed a man over alleged homosexuality in Raqqa city of Syria recently. According to the photographs which emerged online, the accused man was initially thrown from the roof of a building and was then stoned to death by the mob.”
 - “ISIS militants set up dates with gay men to expose them for execution,” Khaama Press (10 May 2015), <http://www.khaama.com/isis-militants-set-up-dates-with-gay-men-to-expose-them-for-execution-9415>
- **“Homosexuality is considered serious crime in Afghanistan and the possible punishment for homosexuals may include the death penalty.”**
 - “Afghan man admits his homosexuality,” Khaama Press (26 October 2013), <http://www.khaama.com/afghan-gay-comes-out-of-closet-3013>
- **“In some cases, the homosexual Afghans are coming out of the closets and openly speak about their homosexuality in one of the most complicated society, where homosexuality is not only a crime, but also a deep cultural taboo that’s hardly ever discussed publicly. A former professor in Afghan**

American University, Nemat Sadat is among the several homosexuals in Afghanistan who has public admitted is homosexuality.”

- “Afghan man admits his homosexuality,” Khaama Press (26 October 2013), <http://www.khaama.com/afghan-gay-comes-out-of-closet-3013>
- “In the meantime, the American University of Afghanistan (AUAF) has said that Nemat Sadat is not a professor at the American University of Afghanistan. “Since opening in 2006, the American University of Afghanistan has always acted in line with the highest principles of ethical conduct and – to quote directly from the university’s charter – “operates within the protections afforded by the Constitution of the Government of the Islamic Republic of Afghanistan,” AUAF said in a statement.”
 - “Afghan man admits his homosexuality,” Khaama Press (26 October 2013), <http://www.khaama.com/afghan-gay-comes-out-of-closet-3013>
- “A year later, in July 2013, the Afghan government alleged that my public outreach was subverting Islam in Afghanistan, so they pressured AUAF to fire me. A month later, from my new bedroom in New York City, I took a huge leap of faith to announce my sexuality in a plea to reconcile my identity conflict and finally be accepted by my family and nation.”
 - “As Russia Runs For the Closet, Afghanistan Comes Out,” Out Magazine (21 February 2014), <https://www.out.com/news-opinion/2014/02/21/russia-runs-closet-afghanistan-comes-out>
- “Instead, I was disowned by my father who was ambassador to West Germany under the People’s Democratic Party of Afghanistan (PDPA), the communist regime, which rose to power with the collaboration of the Kremlin and ruled from 1978 to 1992. My father said that he and his three younger brothers joined the PDPA to fight for equality in Afghanistan. **How ironic that, after I declared myself gay and condemned the violence against persecuted minorities in Afghanistan, that they would isolate me and try to sabotage my efforts to spread universal human rights. The reaction from Afghanistan was much worse. I received thousands of death threats from angry Afghans who were flabbergasted about my insistence that I’m both a proud homosexual and a Muslim.**”
 - “As Russia Runs For the Closet, Afghanistan Comes Out,” Out Magazine (21 February 2014), <https://www.out.com/news-opinion/2014/02/21/russia-runs-closet-afghanistan-comes-out>
- “**“It’s 100 percent against Islam,**” said Osmani, 21, who grew up in Kabul, a city where younger residents now watch Hollywood movies, listen to rap music

- and spend hours surfing YouTube. **“Afghans have no tolerance toward the gay people.”**”
- “After Orlando attack, prevailing view is there are ‘not any gays’ in Afghanistan,” Washington Post (14 June 2016), https://www.washingtonpost.com/world/asia_pacific/after-brutal-attack-prevailing-view-is-there-are-not-any-gays-in-afghanistan/2016/06/14/daabf704-31a5-11e6-ab9d-1da2b0f24f93_story.html?utm_term=.65a974afa5d0
 - **“Indeed, despite being heavily subsidized by U.S. taxpayers, Afghanistan remains one of the world’s most hostile countries for gay men and lesbians, according to human rights groups.** Even in areas under the control of the Afghan government, gay sex remains a crime, and thousands of men are currently imprisoned for sodomy, according to Afghanistan’s Supreme Court.”
 - “After Orlando attack, prevailing view is there are ‘not any gays’ in Afghanistan,” Washington Post (14 June 2016), https://www.washingtonpost.com/world/asia_pacific/after-brutal-attack-prevailing-view-is-there-are-not-any-gays-in-afghanistan/2016/06/14/daabf704-31a5-11e6-ab9d-1da2b0f24f93_story.html?utm_term=.65a974afa5d0
 - **“Wafa noted that the only Afghan known to have come out as gay while living here, Nemat Sadat, was forced to flee the country in 2013 because of death threats.”**
 - “After Orlando attack, prevailing view is there are ‘not any gays’ in Afghanistan,” Washington Post (14 June 2016), https://www.washingtonpost.com/world/asia_pacific/after-brutal-attack-prevailing-view-is-there-are-not-any-gays-in-afghanistan/2016/06/14/daabf704-31a5-11e6-ab9d-1da2b0f24f93_story.html?utm_term=.65a974afa5d0
 - **“‘They will kill us without sympathy,’** [a 20-year old gay student] said, requesting that her full name and exact location not be published to protect her safety.”
 - **“‘A virtual death sentence’: Gay Afghans brace for uncertain future under Taliban**”, NBC News (29 Aug 2021), <https://www.nbcnews.com/nbc-out/out-news/-virtual-death-sentence-gay-afghans-brace-uncertain-future-taliban-rcna1779>
 - **“Faraz, who asked to be identified by only one name, is a 25-year-old gay man who said he fears for himself and his three sons. He fears he and his family will be kidnapped and killed if they remain in Afghanistan. ‘The Taliban is in**

- search of the gay people. They are going from street to street,' he said, pleading for the U.S. State Department top evacuate him and his family."**
- "A virtual death sentence': Gay Afghans brace for uncertain future under Taliban", NBC News (29 Aug 2021), <https://www.nbcnews.com/nbc-out/out-news/-virtual-death-sentence-gay-afghans-brace-uncertain-future-taliban-rcna1779>
 - **"While homosexuality has long been criminalized in Afghanistan, advocates fear the situation for gay Afghans will become even more perilous under the Taliban, who may choose to apply the death penalty for same-sex conduct, which they reportedly did during their first stint in power from 1996-2001."**
 - "A virtual death sentence': Gay Afghans brace for uncertain future under Taliban", NBC News (29 Aug 2021), <https://www.nbcnews.com/nbc-out/out-news/-virtual-death-sentence-gay-afghans-brace-uncertain-future-taliban-rcna1779>
 - **"Homosexuality was criminalized under the previous Afghan government, and LGBTQ people reported facing violence and harassment, including from state officials. Organizations working on behalf of LGBTQ rights were not allowed to work openly or register with the government."**
 - "A virtual death sentence': Gay Afghans brace for uncertain future under Taliban", NBC News (29 Aug 2021), <https://www.nbcnews.com/nbc-out/out-news/-virtual-death-sentence-gay-afghans-brace-uncertain-future-taliban-rcna1779>
 - **"As a gay person in Afghanistan, you cannot reveal yourself, even to your family or your friends. If I reveal myself to my family, maybe they will beat me, maybe they will try to kill me."**
 - "LGBT in Afghanistan: 'I could be killed on the spot'", BBC News (20 Aug 2021), <https://www.bbc.com/news/newsbeat-58271187>.
 - **"I don't think I will ever continue my education. My friends, I have lost contact with them. I don't know if they're okay. My partner, he is stuck in a different city with his family. I cannot go there, he cannot come here."**
 - "LGBT in Afghanistan: 'I could be killed on the spot'", BBC News (20 Aug 2021), <https://www.bbc.com/news/newsbeat-58271187>.
 - **"Even if the Taliban accepts a woman in the government, in school, they will never accept gay or LGBT people. They will kill all of them on the spot."**

- “LGBT in Afghanistan: ‘I could be killed on the spot’”, BBC News (20 Aug 2021), <https://www.bbc.com/news/newsbeat-58271187>.
- According to Gul Rahim, a Taliban judge, “[t]here are only two penalties for gays: Either stoning or he has to stand behind a wall that falls on him. The wall must be 2.5 to 3 meters high.”
 - “Taliban-controlled Afghanistan will ‘crush gay men to death with 10ft walls’, warns judge”, Pink News (24 Jul 2021), <https://www.pinknews.co.uk/2021/07/14/taliban-afghanistan-gay/>.
- “Tragically, Gabir finally discovered from a friend that his boyfriend, who was just 24 years old, had been tracked down by the Taliban and killed...’Afterwards they said they brought the body [back] and cut his body into pieces to show the people that this is what we do with gay people.”
 - “Taliban cut Afghan man’s body into pieces to ‘show what they do with gay people’”, Pink News (25 Aug 2021), <https://www.pinknews.co.uk/2021/08/25/taliban-afghanistan-gay-lgbt/>.
- “‘LGBT+ Afghans really don’t have any options. They can either await a slow death or a quick one. Whatever little joy they had will evaporate knowing that the Taliban can take their life at any moment.’”
 - “Taliban cut Afghan man’s body into pieces to ‘show what they do with gay people’”, Pink News (25 Aug 2021), <https://www.pinknews.co.uk/2021/08/25/taliban-afghanistan-gay-lgbt/>.
- “A gay man in Afghanistan was beaten, raped and outed to his family by the Taliban when he tried to flee the country.”
 - “Gay Afghan man raped and beaten by cruel Taliban fighters after desperately trying to flee”, Pink News (20 Aug 2021), <https://www.pinknews.co.uk/2021/08/30/taliban-rape-gay-afghanistan-lgbt/>.
- “The incident occurred after Hanan [the victim] started talking to a man on social media who promised he would help him get out of Afghanistan. Hanan spoke to the man for three weeks before meeting him – but it turned out to be an elaborate ruse. There, he was met by two members of the Taliban. **The men proceeded to beat and rape Hanan, and even demanded that he hand over his father’s number so they would call and tell him his son was gay.**”

- “Gay Afghan man raped and beaten by cruel Taliban fighters after desperately trying to flee”, Pink News (20 Aug 2021), <https://www.pinknews.co.uk/2021/08/30/taliban-rape-gay-afghanistan-lgbt/>.
- “LGBT+ Afghans desperate to escape amid Taliban takeover”, Reuters (22 Aug 2021), <https://www.reuters.com/article/us-afghanistan-lgbt-refugees/lgbt-afghans-desperate-to-escape-amid-taliban-takeover-idUSKBN2FN0FA>.
- “It was never easy being gay or transgender in Afghanistan. **Now it could be deadly, according to LGBT+ Afghans, whose fear of violence under the Taliban is driving a frantic bid to escape.**”
 - “LGBT+ Afghans desperate to escape amid Taliban takeover”, Reuters (22 Aug 2021), <https://www.reuters.com/article/us-afghanistan-lgbt-refugees/lgbt-afghans-desperate-to-escape-amid-taliban-takeover-idUSKBN2FN0FA>.
- “‘If I find a visa and a country gives me permission to leave, of course I will risk everything to get out’, said one gay Afghan student, whose name was withheld for his protection. ‘Any country, but not here. Living here means nothing for us.’”
 - “LGBT+ Afghans desperate to escape amid Taliban takeover”, Reuters (22 Aug 2021), <https://www.reuters.com/article/us-afghanistan-lgbt-refugees/lgbt-afghans-desperate-to-escape-amid-taliban-takeover-idUSKBN2FN0FA>.
- “**The law criminalizes consensual same-sex sexual conduct. Under Islamic sharia law, conviction of same-sex sexual activity is punishable by death, flogging, or imprisonment.** Under the penal code, sex between men is a criminal offense punishable by up to two years’ imprisonment and sex between women with up to one year of imprisonment. **The law does not prohibit discrimination or harassment based on sexual orientation or gender identity.**” (42)
- “**Lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals reported they continued to face arrest by security forces and discrimination, assault, and rape.** There were reports of harassment and violence of LGBTI individuals by society and police. **Homosexuality was widely seen as taboo and indecent. LGBTI individuals did not have access to certain health-care services and could be fired from their jobs because of their sexual orientation.** Organizations devoted to protecting the freedom of LGBTI persons remained underground because they could not legally register with the government. Even registered organizations working on health programs for men who have sex with men faced harassment and threats by the Ministry of Economy’s NGO Directorate and NDS officials.” (42-3)

- United States State Department: *Country Reports on Human Rights Practices for 2020, 2021*, <https://www.state.gov/wp-content/uploads/2021/03/AFGHANISTAN-2020-HUMAN-RIGHTS-REPORT.pdf>.
- “Saboor Husaini, a transgender activist and artist, died in a Herat hospital after being beaten by an unidentified group of men December 25.” (42-3)
 - United States State Department: *Country Reports on Human Rights Practices for 2020, 2021*, <https://www.state.gov/wp-content/uploads/2021/03/AFGHANISTAN-2020-HUMAN-RIGHTS-REPORT.pdf>.
- “There were no confirmed reports of discrimination or violence against persons with HIV or AIDS, but **there was reportedly serious societal stigma against persons with AIDS**. While the law allows for the distribution of condoms, the government restricted distribution to married couples.” (43)
 - United States State Department: *Country Reports on Human Rights Practices for 2020, 2021*, <https://www.state.gov/wp-content/uploads/2021/03/AFGHANISTAN-2020-HUMAN-RIGHTS-REPORT.pdf>.
- “Some victims of bacha bazi were charged with “moral crimes” and treated as equally responsible perpetrators as the adult.” (9)
 - United States State Department: *Country Reports on Human Rights Practices for 2020, 2021*, <https://www.state.gov/wp-content/uploads/2021/03/AFGHANISTAN-2020-HUMAN-RIGHTS-REPORT.pdf>.
- “**Police reportedly beat and sexually abused children**. Children who sought police assistance for abuse also reported being further harassed and abused by law enforcement officials, particularly in bacha bazi cases, which deterred victims from reporting their claims.” (38)
 - United States State Department: *Country Reports on Human Rights Practices for 2020, 2021*, <https://www.state.gov/wp-content/uploads/2021/03/AFGHANISTAN-2020-HUMAN-RIGHTS-REPORT.pdf>.
- “The government took steps to discourage the abuse of boys and to prosecute or punish those involved. **The penal code criminalizes bacha bazi as a separate crime and builds on a 2017 trafficking-in-persons law (TIP law) that includes provisions criminalizing behaviors associated with the sexual exploitation of children**. The penal code details the punishment for authorities of security forces involved in bacha bazi with an average punishment of up to 15 years’

imprisonment. **Although no police officer had ever been prosecuted for bacha bazi, eight officers were arrested during the year in connection with bacha bazi incidents and charged with “moral crimes,” sodomy, or other crimes”** (39)

- United States State Department: *Country Reports on Human Rights Practices for 2020, 2021*, <https://www.state.gov/wp-content/uploads/2021/03/AFGHANISTAN-2020-HUMAN-RIGHTS-REPORT.pdf>.
- **“Despite consistent reports of bacha bazi perpetrated by Afghan National Army, ANP, and Afghan Local Police officials, however, the government has never prosecuted an official for bacha bazi, although the Attorney General’s Office investigated and filed indictments against seven Kandahar security officers implicated in the sexual abuse and death of a boy in September.”** (44)
 - United States State Department: *Country Reports on Human Rights Practices for 2020, 2021*, <https://www.state.gov/wp-content/uploads/2021/03/AFGHANISTAN-2020-HUMAN-RIGHTS-REPORT.pdf>.
- “On March 20, [2017], a Tajik police commander in Faryab Province reportedly killed the son of another police commander, an Uzbek, for hosting a bacha bazi party with Tajik boys.” (29)
 - United States State Department: *Afghanistan 2017 Human Rights Report*, 2017, <https://www.state.gov/wp-content/uploads/2019/01/Afghanistan.pdf>.
- “Homosexuality is reportedly outlawed in Afghanistan under both criminal and Islamic law, although some sources refer to the illegality of homosexual acts when reporting on this issue. The Taliban are alleged to have executed homosexuals during their period of government but it is reported that homosexuality, or homosexual acts, have not attracted the same harsh punishments in Afghanistan since the demise of the Taliban regime. **Some sources describe sex between men in Afghanistan as prevalent although it is considered a taboo subject and is unacknowledged.** Conservative societal attitudes repress homosexuals, who are alleged to conceal their sexual orientation. **Sexual relations between men and young boys are reported to be a Pashtun tradition that is prevalent in the city of Kandahar. Young boys involved in these relationships are often exploited.** Some Western sources have criticised both the portrayal by Western media of these relationships and of homosexuality in general in Afghanistan. Information on the extent of homosexuality amongst non-Pashtun ethnicities is extremely scarce. The limited information that could be located by the Country Research Section (CRS) on lesbians in Afghanistan indicates the illegality of same-sex female relationships and a low level of acceptance in society. Information on the existence of transgender or transsexuals in Afghanistan could not be located by CRS, however this should not be

- interpreted as a lack of presence of these groups in the country. **No information could be located by CRS on the existence of support services for sexual minorities in Afghanistan although some level of support appears to exist for those inflicted with HIV/AIDS, of which there are estimated to be thousands.**” (4)
- United States Department of Justice: *Afghanistan: Sexual Minorities*, February 2009, https://www.justice.gov/sites/default/files/eoir/legacy/2013/06/11/aus_afghanistan_sexual_minorities_200902.pdf.
 - “The World Health Organisation (WHO) recorded in 2009, ‘Afghanistan has a low HIV prevalence among the general and key population groups, except for injecting drug users (IDUs)’” (23)
 - UK Home Office: *Country Policy and Information Note – Afghanistan: Medical and Healthcare Provision*, December 2020, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/944061/Afghanistan.Medical_and_Healthcare_CP_IN.v1.0.December_2020.pdf.
 - “WHO noted in the Afghanistan Health Profile 2015: ‘A national strategic plan on HIV and AIDS is in place. **A number of services are offered targeting people who inject drugs, including needle exchange programmes and a limited opioid substitution therapy programme, but coverage remains insufficient.** Interventions currently target people who inject drugs, sex workers and men who have sex with men. HIV is diagnosed in voluntary counselling and testing centres. There are national guidelines for diagnosing HIV and preventing mother-to-child transmission, but HIV tests are not routinely offered to pregnant women. Evidence indicates that HIV is currently spreading from people who inject drugs to their sexual partners and thus to the general population. This will continue unless effective, vigorous and sustained action is taken. Diagnostic services are integrated with the HIV/AIDS programme; however, there is no specialized treatment for hepatitis.’” (23)
 - UK Home Office: *Country Policy and Information Note – Afghanistan: Medical and Healthcare Provision*, December 2020, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/944061/Afghanistan.Medical_and_Healthcare_CP_IN.v1.0.December_2020.pdf.
 - “The Tribunal has held that some conduct that would be seen in the West as a manifestation of homosexuality is not necessarily interpreted in such a way in Afghan society. The evidence shows that many Afghan men may have had some homosexual experience without having a homosexual preference. A careful assessment of the credibility of a claim to be a practising homosexual is particularly important.” (8)

- UK Home Office: *Afghanistan: Sexual Orientation and Gender Identity*, January 2017, <https://www.justice.gov/eoir/page/file/927216/download>.
- **“An openly LGBT person in Afghanistan is likely to face adverse attention from society in general; family rejection, including being at risk from an “honour” killing; may be unable to access health services; and could be fired from their jobs on the basis of their sexual orientation.” (8)**
 - UK Home Office: *Afghanistan: Sexual Orientation and Gender Identity*, January 2017, <https://www.justice.gov/eoir/page/file/927216/download>.
- “In respect of non-state actors, a lesbian, or gay man with what may be seen as feminine traits, is likely to be at risk of persecution or serious harm. Whilst space for being openly gay is limited, subject to individual factors, a practising gay man who, on return to Kabul, would not attract or seek to cause public outrage, would not face a real risk of persecution.” (8)
 - UK Home Office: *Afghanistan: Sexual Orientation and Gender Identity*, January 2017, <https://www.justice.gov/eoir/page/file/927216/download>.
- “In the absence of other risk factors, it may be a safe and viable option for a gay man to relocate to Kabul, though individual factors will have to be taken into account.” (8)
 - UK Home Office: *Afghanistan: Sexual Orientation and Gender Identity*, January 2017, <https://www.justice.gov/eoir/page/file/927216/download>.
- “According to Sida ‘Sharia law-based punishment is more likely to occur in isolated, rural communities. In the cities, persons convicted of homosexuality are generally sentenced to prison. Dr. Orzala Ashraf Nemat indicated in her October 2016 Independent Advisory Group on Country Information (IAGCI)-commissioned review of the February 2016 version of the country information and guidance on Afghanistan: Sexual Orientation and Gender Identity that whilst there were no formal accounts of women in prison for being lesbian, it is likely that a woman convicted of homosexuality would face imprisonment.’ (11)
 - UK Home Office: *Afghanistan: Sexual Orientation and Gender Identity*, January 2017, <https://www.justice.gov/eoir/page/file/927216/download>.
- “In November 2014, the Swedish International Development Cooperation Agency, Sida, reported on the rights of LGBTI persons in Afghanistan and stated, with regards to the general situation, that: ‘LGBTI persons in Afghanistan have a very narrow space to live their lives freely. Common law and sharia law criminalise same-sex sexual relations, and the acceptance of non-conforming sexual orientation and gender identity is low. **The situation of gender division and the oppression of women are obstacles for all genders, but especially lesbian women, to find spaces to live freely.** Homosexuality is often associated

- with sexual abuse, paedophilia and prostitution. The inability to differentiate between consensual sex between adults and sexual abuse is common and trickles down into the nation's legal system. **Conservative values and a high rate of violence by family members towards LGBTI persons who break gender roles are obstacles for those who have non-conforming sexuality or gender expressions, as well as women and men who oppose arranged marriages or domestic violence.**” (12-3)
- UK Home Office: *Afghanistan: Sexual Orientation and Gender Identity*, January 2017, <https://www.justice.gov/eoir/page/file/927216/download>.
 - “In October 2016, BBC News produced a brief interview with four Afghans with different sexual orientation. The report noted that all those who spoke to the BBC ‘... share the problem of family pressure to get married to a partner from the opposite sex and conform to the norms of traditional Afghan society.’ Also speaking to the BBC, Dr. Niaz Shah of Hull University in the UK, an expert in Afghan and Islamic law, said that ‘[W]hile homosexuality was and is practised in Afghan society in a variety of male-male relationships, people do not see themselves as gay and often go on to marry women. **The concept of gay love is alien to Afghan society.**” (13)
 - UK Home Office: *Afghanistan: Sexual Orientation and Gender Identity*, January 2017, <https://www.justice.gov/eoir/page/file/927216/download>.
 - “Whilst CPIT was unable to locate information on the prevalence of lesbians in Afghanistan, their presence was confirmed in an October 2016 article by the BBC. The report noted that, despite still living at home, one woman stated that her parents and siblings had no idea she was a lesbian. The woman told the BBC **“There are lots of lesbian women but they can't talk about it openly... In Afghanistan, being lesbian is seen as un-Islamic. If people found out, the result would be death. My family must never know.**” (16)
 - UK Home Office: *Afghanistan: Sexual Orientation and Gender Identity*, January 2017, <https://www.justice.gov/eoir/page/file/927216/download>.
 - **“Homosexual sex is illegal in Afghanistan. Article 427 of the Penal Code defines homosexual sex as ‘pederasty’ (sexual activity between a man and a boy) and provides for the use of the death penalty in accordance with sharia”** (36)
 - Australian Department of Foreign Affairs and Trade: *Country Information Report – Afghanistan*, June 2019, <https://www.dfat.gov.au/sites/default/files/country-information-report-afghanistan.pdf>.
 - “There are credible reports of individuals being dismissed from their jobs, disowned by their families, restricted from accessing health services, being

- robbed, pressed for sexual favors, or raped because of suspicions that they are homosexual” (37)
- Australian Department of Foreign Affairs and Trade: *Country Information Report – Afghanistan*, June 2019, <https://www.dfat.gov.au/sites/default/files/country-information-report-afghanistan.pdf>.
 - “Although lesbian women are not subject to prosecution under Article 427, the low levels of autonomy for women, including financial, mean it is difficult for women to have primary relationships without men” (37)
 - Australian Department of Foreign Affairs and Trade: *Country Information Report – Afghanistan*, June 2019, <https://www.dfat.gov.au/sites/default/files/country-information-report-afghanistan.pdf>.
 - **“The practice of bacha bazi (dancing boys) involves young boys being forced to dance in female attire for audiences of adult males, after which sexual abuse (including gang rape) often occurs. Many of the boys are reportedly either kidnapped, or sold by their impoverished families. Although it occurs nationwide, the practice is reportedly most prevalent in conservative rural areas, particularly among Pashtun groups in the south and southeast and Tajik groups in the north. Bacha bazi is not widely seen as homosexual behaviour, but rather as a cultural practice”** (38)
 - Australian Department of Foreign Affairs and Trade: *Country Information Report – Afghanistan*, June 2019, <https://www.dfat.gov.au/sites/default/files/country-information-report-afghanistan.pdf>.