

## MOROCCO



**Penal Code** of 26 November 1962.

### Article 489

*[UNNATURAL ACTS]*

“Any person who commits lewd or unnatural acts with an individual of the same sex shall be punished with a term of imprisonment of between six months and three years and a fine of 120 to 1,000 dirhams, unless the facts of the case constitute aggravating circumstances.”

### Article 483

*[MORALITY CODE LIMITING SOGI PUBLIC EXPRESSION- OBSCENITY]*

“[W]hoever commits an act of public indecency, whether by nudity or obscenity in his actions, shall be punished by imprisonment of one month to two years and a fine of 200 to 500 dirhams.”

Although there were no direct references to SOGI in Morocco's 2<sup>nd</sup> UPR sessions in October 2015, the USA made a recommendation to “Promptly approve the license applications for all civil society organisations that meet legal requirements, including those organisations advocating for minority populations” (para. 39)

The Committee on Economic, Social and Cultural Rights made specific SOGI recommendations in their Concluding Observations on Morocco in October 2015

In para. 14. The Committee said that “(d) Ensure that [...] homosexuals can enjoy the rights recognized in the Covenant, particularly access to employment, social services, health care and education”. In para. 15, “the Committee is concerned that the State party criminalizes consensual sexual relations between same-sex adults (art. 489 of the Criminal Code). The Committee expresses its concern about discrimination on grounds of sexual orientation and gender identity and about the stigmatisation and violence to which these persons are subjected”.

Numerous reports of arrests and police intimidation appeared in the recent period with a particularly alarming event recorded in Rabat, March 2016. In August 2016, in its Concluding Observations, the Human Rights Committee said “11. The Committee expresses its concern about the criminalization of homosexuality punishable by up to three years’ imprisonment and the arrests made on that basis. It is also concerned about allegations of incitement to hatred, discrimination and violence against persons on the grounds of their sexual orientation or gender identity (Arts.2, 9 and 26).”

## NAMIBIA



Sodomy remains a crime in Namibia according to the Roman-Dutch common law. There is no codified sodomy provision in Namibia, although despite the fact that the provision has been triggered (see Ch. 4) extremely rarely its ‘chill factor’ has effect. Section 299 of the 2004 Criminal Procedure Act groups sodomy together with a list of other crimes for which police are authorised to make an arrest without a warrant or to use of deadly force in the course of that arrest.

The calls for legal congruence with the country’s 1990 Constitutional principles (Articles 8, 10 and 13 – dignity, equality and non-discrimination, and privacy) have been repeatedly echoed, as has consistency with its international law obligations. However, despite the fact that the country has accepted LGBT Ugandan asylum seekers in the last three years, there have been worrying utterances by political and religious representatives in Namibia, according to advocates.

At its 2<sup>nd</sup> UPR session in January 2016 the Namibian government rejected five recommendations for decriminalization, and accepted two to do with strengthening of institutional capacities to address violence, and the adoption of measures to combat violence. A Shadow Report by SALC and other groups pointed out that: “Namibia has also not yet extended