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STATE-SPONSORED HOMOPHOBIA

2019

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LUCAS RAMÓN MENDOS

ilga.org



SUDAN

Provisions in force

- ▶ Penal Code (Act No. 8, 1991).

Sodomy / Recidivism

Section 148. Sodomy.

- (1) Any man who inserts his penis or its equivalent into a woman's or a man's anus or permitted another man to insert his penis or its equivalent in his anus is said to have committed Sodomy.
- (2)
 - (a) Whoever commits Sodomy shall be punished with flogging one hundred lashes and he shall also be liable to five years imprisonment.
 - (b) If the offender is convicted for the second time he shall be punished with flogging one hundred lashes and imprisonment for a term which may not exceed five years.
 - (c) If the offender is convicted for the third time he shall be punished with death or life imprisonment.

Gross indecency

Section 151. Indecent Acts.

Whoever commits an act of gross indecency upon the person of another person or any sexual act which does not amount to Zina or Sodomy shall be punished with not more than forty lashes and shall also be liable for imprisonment for a term which may not exceed one year or fine.

Qadhif

Section 157. Qadhif (Casting Accusation of In chastity).

- (1) Whoever imputes to any honourable living or dead person by express words, implicitly, by writing or indicative signs accusation of Zina or Sodomy or illegitimacy is said to commit Qadhif.
- (2) A person is said to be honourable (Chaste) if he has not been convicted for Zina, Sodomy, Rape, Incest or Practising Prostitution.
- (3) Whoever commits Qadhif shall be punished with flogging eighty lashes.

Human rights situation

In 2006, Freedom Sudan, a LGBT organisation was set up, and the group runs an online forum to provide support and advice to LGBT people in the country.¹ In 2010, it was reported that 19 men were lashed 30 times and fined for allegedly cross-dressing and "behaving like women" at a private

party.² A 2011 article explained that sexual behaviour is closely linked to the concept of honour, which results in honour killings and strong hostility towards any public discussion of "homosexuality" as it is regarded as linked to "sexual harassment, child abuse, class hatred and

¹ Reem Abbas Shawkat, "Quietly, Sudan's underground gay movement grows online", *The Niles*, 21 September

² 2011. *Ibid.*

marital infidelity".³ In addition, laws on gender policing and same-sex behaviour are often used against political opponents, such as in the case of journalist Lubna Hussein who was arrested and jailed for wearing trousers.⁴

Since 2012, Rainbow Sudan runs an online magazine on LGBT issues.⁵ Its editor explained that "to understand the gay community in Sudan you have to understand the religious factor here... it is a big taboo and regarded one of the biggest sins possible."⁶ He added: "we are just at the very first steps to start discussing about homosexuality. We move at the pace of a baby. Currently the country is not ready to open up to LGBTQ issues, but we have not lost hope of succeeding."⁷

In 2016, the Mesahat Foundation for Sexual and Gender Diversity released a booklet documenting the stories and daily struggles of LGBT Sudanese. It reported that many LGBT Sudanese leave the country to seek safety and those who are unable to do so must "withstand the physical, psychological, and emotional abuse".⁸ Contributors to the report received death threats, suffered homophobic attacks and discrimination from family members, at the workplace and in school when they are outed or perceived to be LGBT. In addition, a short video on LGBT life in Sudan was released, illustrating an underlying brutality in social attitudes towards sexual and gender diversity.⁹

National Human Rights Institution

The Sudan National Human Rights Commission was established in 2012, though key leadership positions were only recently filled.¹⁰ The Commission does not appear to have carried out any work in relation to SOGI.

UN voting record

Sudan was not a member of the Human Rights Council in 2011, 2014 or 2016 and, therefore, did not vote for any of the SOGI resolutions. At the session of Third Committee of the UN General Assembly held in November 2016, Sudan voted against the LAC amendment to remove Operative Paragraph 2,¹¹ and in favour of the African oral amendment to block the IE SOGI at the UNGA Plenary Session. Additionally, it voted in favour of the amendment which tried to block financial resources allocated to the IE SOGI.

International advocacy and supervision

Universal Periodic Review

In its 2nd cycle review in May 2016, Sudan 'noted' (rejected) 2 recommendations to prevent discrimination based sexual orientation.¹² Sudan's 3rd UPR commences May 2021.

Treaty Bodies

In 2007, the Human Rights Committee emphasised that the use of the death penalty for consensual same-sex acts, was incompatible with the ICCPR.¹³ In 2018, the HRC reiterated its concern about the persistence of discriminatory provisions.¹⁴ It also urged for the repeal of the sodomy law, the use of flogging and the death penalty.¹⁵

In 2015, Committee on Economic, Social and Cultural Rights (CESCR) urged Sudan to amend discriminatory provisions and to punish SOGI-based acts of discrimination.¹⁶

³ Ghareeb, "Breaking news: LGBT has hit Sudan", *Pambazuka*, 17 August 2011.

⁴ "Sudanese 'trousers woman' jailed", *BBC News*, 7 September 2009.

⁵ Dan Littauer, "New magazine and hope for LGBT people in Sudan", *Pink News*, 30 March 2012.

⁶ Dan Littauer, "New magazine and hope for LGBT people in Sudan", *Pink News*, 30 March 2012.

⁷ Pier Cesare Notaro, "LGBT rights in Sudan: someone fights for the rainbow", *ilgrandecolibri*, 13 January 2013.

⁸ Mesahat Foundation for Sexual and Gender Diversity, *LGBT Voices from Sudan: Recording a Past, Building a Future* (2016).

⁹ "Queer Voices From Sudan...What is it like to be Queer in Khartoum?", *Mesahat* مساحات Youtube Channel, 30 January 2017.

¹⁰ Michel Forst, *World Report on the Situation of Human Rights Defenders* (2018), p. 101.

¹¹ Operative Paragraph 2 was an attempt by the Africa Group to defer consideration and action on HRC Resolution 32/2 under the pretext that further consultations were needed to determine the legal basis upon which the IE SOGI would operate on. For more information, see: Out Right, ISHR, ILGA and ARC International, *Defending the independent expert on protection against violence and discrimination based on sexual orientation and gender identity at the 71st Session of the United Nations General Assembly* (2017), 4. Draft report of the Working Group on the Universal Periodic Review: Sudan, A/HRC/WG.6/25/L.5, 19 May 2016.

¹² Consideration of reports submitted by States Parties under article 40 of the Covenant - Concluding observations of the Human Rights Committee - The Sudan, CCPR/C/SDN/CO/3, 27 August 2007, para. 19.

¹³ *Concluding observations on the fifth periodic report of the Sudan*, CCPR/C/SDN/CO/5, 19 November 2018, para. 14.

¹⁴ *Concluding observations on the fifth periodic report of the Sudan*, CCPR/C/SDN/CO/5, 19 November 2018, para. 16.

¹⁵ *Concluding observations on the second periodic report of the Sudan*, E/C.12/SDN/CO/2, 27 October 2015, para. 20.