

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	572
Land:	Sri Lanka
Kilde:	ILGA
Titel:	State Sponsored Homophobia 2017
Udgivet:	Maj 2017
Optaget på baggrundsmaterialet:	13. juni 2017

SRI LANKA



Penal Code 1885 (as amended by the Penal Code (Amendment) Act, No. 22 of 1995).

Article 365. Unnatural offences

[AGAINST THE ORDER OF NATURE]

“Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment of either description for a term which may extend to ten years [...]

Explanation – penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.”

Article 365A. Acts of gross indecency between persons

[GROSS INDECENCY]

“Any person who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any person of any act of gross indecency with another person, shall be guilty of an offence and shall be punished with imprisonment of either description for a term which may extend to two years or with a fine, or with both and where the offence is committed by a person over eighteen (18) years of age in respect of any person under sixteen (16) years of age shall be punished with rigorous imprisonment for a term not less than 10 years and not exceeding 20 years and with a fine and shall also be ordered to pay compensation of amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such a person.”

At Sri Lanka’s 2nd cycle UPR in November 2012, only two States (Argentina and Canada) made specific recommendations regarding decriminalisation in the Penal Code. Sri Lanka ‘noted’ them. The State’s next review will be in November 2017.

Although the 1995 amendments broadened the scope of the law to be gender-neutral, according to Kaleidoscope Trust (at p. 47), the law is essentially seen to be a dead law (unenforced although legally valid). However, it is important to note that the presence of the law creates a significant ‘chill factor’ on LGBT people who continue to be subject to extortion and violence. This organisation also reports that at its appearance at the Human Rights Committee, the State acknowledged constitutional protection regarding discrimination in relation to SOGI, amidst a somewhat softening tone regarding SOGI. However, Sri Lanka voted against the creation of a SOGI mandate holder at the UN in late-2016.

Also, in a January 2017 interview the Minister for Justice, basing his argument on the religious nature of Sri Lankan society has said regarding 365 and 365A, “under no circumstance are we going to change that law”. Elsewhere he called “homosexuality” a “mental disorder”, a comment that initiated public outcry. There are pressing concerns, that despite earlier consultations, there appears to be moves to remove references to sexual orientation and gender identity from the nation’s National Human Rights Action Plan for 2017-2021.

SYRIA



Penal Code of 1949.

Article 520

[UNNATURAL SEXUAL INTERCOURSE]

“Any unnatural sexual intercourse shall be punished with a term of imprisonment of up to three years.”

Article 517

“Punish crimes against public decency in any of the ways mentioned in paragraph 1 of Article 208 [any act carried out in a public or open area where one could possibly see, intentionally or accidentally, the act] with imprisonment of three months to three years.”

Despite the provisions of the black letter law, since 2011 Syria has become one of the most dangerous places on earth for sexual and gender minorities, with frequently complex responses to same sex sexual activity. Of the relatively few