

Flygtningenævnets baggrundsmateriale

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OMAN

**Omani Penal Code of 1974.****Article 33****[DISGRACING CRIMES]**

"The following are deemed as disgracing crimes:

I. All felonies punishable by a coercive sentence.

II. All misdemeanours stated hereafter:

1. Bribery; 2. Embezzlement; 3. False testimony; 4. Perjury; 5. Forgery and use, with knowledge, of forged items; 6. Incitement to prostitution; 7. Homosexual and lesbian intercourses; 8. Drug trafficking; 9. Theft; 10. Rape and assault; 11. Fraud; 12. Flash Cheque; 13. Breach of trust; 14. Counterfeit; 15. Trespass."

Homosexual and Lesbian Intercourses**Article 223.****[HOMOSEXUAL AND LESBIAN EROTIC ACTS]**

"Anyone who commits erotic acts with a person of the same sex shall be sentenced to imprisonment from six months to three years. The suspects of homosexual or lesbian intercourse shall be prosecuted without a prior complaint, if the act results in a public scandal. The suspects of lesbian intercourse among ascendants, descendants or sisters shall only be prosecuted upon a complaint from a relative or a relative by marriage forth-degree removed."

At its 1st cycle UPR, Sweden made two recommendations that Oman 'noted' (i.e. rejected) – one to decriminalise same-sex sexual relations, and the other to abolish discrimination based on SOGI.

Although there are no morality laws that specify SOGI in regard to limits on the freedom of expression in Oman, in September 2013 the English-language newspaper *The Week* was shut down for one week after printing an article about the country's LGBT community. The content was deemed to fall under "public discord", which carries a three-year prison sentence. The article's author and the paper's editor were charged with violating the highly restrictive 1984 Press and Publications Law. Under pressure from the government, the newspaper removed the article from its website, though the print issue continued to circulate.

Oman's 2nd cycle UPR was in November 2015. Only one civil society submission mentioned decriminalising "homosexuality", and both Mexico and Brazil made recommendations for Oman to repeal its legislation (or at least not apply it [Brazil]). The State 'noted' (rejected) these recommendations.

PAKISTAN

**Penal Code (Act XLV of 1860).****Section 377. '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 for life, or with imprisonment of either description for a term which shall not be less than two years nor more than ten years, and shall also be liable to a fine.

Explanation: Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section."

Section 294. 'Obscene Acts and Songs'**[OBSCENE ACTS]**

"Whoever to the annoyance of others---a) does any obscene act in any public place, or b) sings, recites or utters any obscene songs, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both."

Section 12 (Ordinance No. VII of 1979)**[UNNATURAL LUST]**

This provision was **amended** in 1980 by an ordinance that raised the minimum punishment to ten years and a fine. Under Section 12 of the Hudood Ordinances, “Whoever kidnaps or abducts any person in order that such person may be subjected [...] to [...] unnatural lust [...] shall be punished with death or [...] imprisonment for a term which may extend to twenty-five years, and shall also be liable to a fine [...]”

There were no direct mentions of SOGI in either of Pakistan’s UPR outcome documents in **May 2008** and **October 2012**. Only in 2008 were there civil society submissions (ILGA and ILGHRC) on the issue (it appears that of the 38 civil society submissions made in 2012, none had a SOGI context). However, there were recommendations concerning the protection of human rights defenders and the training of public employees (judges, police, etc) in international human rights standards in their 2nd cycle UPR. Pakistan’s 3rd cycle UPR will be in November 2017.

Pakistan has been particularly vocal at the Human Rights Council and at various UN fora in its refusal to embrace SOGI within the scope of the various human rights Treaty Bodies, and in its promotion of the ‘traditional values of humankind’ **resolutions** at the Human Rights Council. Most recently, throughout 2016, Pakistan took the lead in **opposing** the appointment of a United Nations SOGI mandate holder, Vitit Muntabhorn. In June 2012, at the 19th session of the HRC, at the reading of a report mandated by the first SOGI resolution (A/HRC/19/42) of September 2011, Pakistan led a **walkout** by member States of the Organisation of Islamic Cooperation, which was unprecedented behaviour in that forum. They were objecting to “attempts to create” “new standards” regarding SOGI that “seriously jeopardise the entire international human rights framework”. Pakistan continues to object to the application of international human rights standards to SOGI in UN forums.

According to Kaleidoscope Trust, in April 2014, a serial killer confessed to killing three gay men because of their sexual orientation, yet Pakistani media depicted the serial killer as “the epitome of righteousness”. Section 294 is **reportedly** often deployed to target male and trans sex workers.

QATAR

Qatar’s 1971 Penal Code (Law Number 14 in 1971 at Art.201) penalised consensual same-sex relations with up to 5 years in prison. The Qatari criminal law was changed in 2004, and according to **Law No. 11** in 2004, sodomy itself is no longer a crime.

However, under the 2004 **Penal Code’s Article 296**, ‘pimping’ same-sex acts is punishable by 1--5 years in jail, and **Article 298** specifies that same-sex sex work is punishable by up to 10 years. This means that as of 2004, there is no civil law criminalising consensual same-sex sexual activity, although the terms “... leading, instigating...” in the statute could potentially be applied to the dissemination of information on SOGI issues.

Article 296 of 2004**[MORALITY CODE LIMITING SOGI PUBLIC EXPRESSION]**

“One is convicted to no less than a year and no more than three years in prison in case of [*inter alia*] 3 - Leading, instigating or seducing a male anyhow for sodomy or immorality. 4 - Inducing or seducing a male or a female anyhow to commit illegal or immoral actions.”

Qatar also runs Sharia courts, where technically it is possible that Muslim men could be put to death for same-sex sexual behaviours, but there appears to be no evidence that has been applied to date. The ‘chill factor’ of these provisions, are covered by UNHCR guidance of 2002 that **explains** (at paras. 57 and 59) norms that do not confirm with international human rights law can be seen to be persecutory “*per se*”. The offence of “Zina” **renders** any sexual act by a married person outside of marriage punishable by death, while sexual acts by non-married persons are punishable by flogging – both are offences, no matter if they were same-sex or different-sex.