

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	272
Land:	Libyen
Kilde:	ILGA
Titel:	State-Sponsored Homophobia 2017 – Libya
Udgivet:	Maj 2017
Optaget på baggrundsmaterialet:	13. september 2017

Section 14.79. Definitions relating to sections on sexual crimes against the person

In this subchapter: “sexual intercourse” occurs upon penetration, however slight; ejaculation is not required; “deviate sexual intercourse” means sexual contact between human beings who are not husband and wife or living together as man and wife though not legally married, consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and vulva; “sexual contact” means any touching of the sexual or other intimate parts of a person for the purpose of arousing or gratifying sexual desire.”

Section 50.7. Sentence to imprisonment for misdemeanour.

“A person who has been convicted of a misdemeanour may be sentenced to imprisonment for the following terms:
For a misdemeanour of the first degree, to a definite term of imprisonment to be fixed by the court at no more than one year;
For a misdemeanour of the second degree, to a definite term of imprisonment to be fixed by the court at no more than thirty days.”

The forces motivating and resisting sexual and gender diversity in Liberia since 2011 are well described in a country information note by the UK Home Office (December 2015), and in Rodenbough (2014).

Liberia received 12 recommendations, three of which they accepted, regarding SOGI in their 2nd UPR review in May 2015, concerning criminalisation, non-discrimination. Interestingly, Madagascar, another African Union (UN bloc) member State, made the recommendation to “condemn discrimination”, and the US made a call to implement the terms of their new National Human Rights Action Plan, which is inclusive of LGBT people, while Italy’s call for Liberia to “combat all forms of discrimination and abuse against LGBTI persons” were all accepted.

CEDAW made an unusual call (at para. 43) in its latest Concluding Observations in November 2015, recognising the actuality of lesbian lives in Liberia: “The Committee (...) also calls upon the State Party to adopt necessary legislative measures to ensure to protect the economic rights of women in *de facto* unions”.

LIBYA



Penal Code of 1953 as amended by Law 70 of 1976

[ZINA]

“Regarding the Establishment of the Hadd Penalty for Zina and Modifying Some of the Provisions of the Penal Law”. The law of 1976 added a fourth paragraph to Articles 407 and 408 respectively that criminalises consensual same-sex behavior.

Article 407(4) of 1953

[ILLICIT SEXUAL INTERCOURSE]

“Whoever has [illicit] sexual intercourse with another person with his consent shall be punished along with his partner with imprisonment for a period not exceeding 5 years”.

Article 408(4) of 1953

“Whoever disgraced the honor of a person with his consent shall be punished along with his partner with imprisonment”.

Article 421 of 1953

[MORALITY CODE LIMITING SOGI PUBLIC EXPRESSION]

“Anyone who commits an act of indecency in a public place will be liable to detention for up to one year and a fine of up to 50 Dinars. The same penalty will apply to anyone who offends public decency by the distribution of writings, pictures or other articles of an indecent nature, or who publicly exposes the same for sale”.

SOGI issues appear not to have been bought up in recommendations to Libya in either of their 1st or 2nd UPR cycles (November 2010 or May 2015). However, ARC International, IGLHRC and ILGA made a Joint Submission in 2010, and Amnesty International made mention of SOGI. Again in 2015, Amnesty repeated its earlier mention, and a recently-formed (2014) online organisation of LGBT Libyan activists, Quzah, submitted a report on the current SOGIESC situation in Libya, demonstrating how LGBTI Libyans are forced to hide their identities and go without protection from discrimination.