

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	188
Land:	Burma
Kilde:	International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA)
Titel:	A world survey of laws: Criminalisation, protection and recognition of same-sex love
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The offenses in this Section range from Class 1 misdemeanors to Class 3 felonies that carry a jail term of between 6 months and 8 years (when same-sex involving incest or adultery)."

Until a new Penal Code came into force in July 2015, consensual same-sex sexual conduct went unregulated in the Maldives under the civil law. But the existing Sharia code has been transposed into the civil code by this 2014 law, and it criminalises same-sex sexual acts for both men and women. For men, the punishment is banishment for nine months to one year or a whipping of 10 to 30 strokes, while the punishment for women is house arrest for nine months to one year.

In its conception, Law No. 6/2014 sets out its range of offences and defences according to a Sharia scheme. This scheme then embraces the entire population and not just those of the Muslim faith. Less than two months after the new Penal Code came into force, arrests of gay men have been **reported**. Testimony in Kaleidoscope Trust's publication (p.43) **portrays** the Maldives as highly hostile to LGBTI persons.

At its 1st cycle UPR in November 2010, recommendations to Maldives were to decriminalise, protect against violence and remove discrimination based on sexual orientation and gender identity in national laws. Maldives **rejected** all of five these recommendations.

In a **Briefing Paper** (at p.2) submitted to Maldives' 2nd cycle UPR in May 2015, the International Service for Human Rights (ISHR) says, "[u]ncodified Muslim Sharia Law criminalises homosexual conduct, thus making the Maldives a very insecure place to advocate for the rights of persons who identify themselves as LGBTI."

A panel of refugee appeals officers in the Immigration New Zealand Agency **recognised** that individuals continue to be forced to flee persecution based on their sexual orientation throughout Maldives.

In finalising its 2nd UPR process in September 2015, the Maldives **rejected** ('noted') two recommendations made to it – concerning discrimination and decriminalisation (Chile and Argentina).

In April 2016, **Concluding Observations** of the Committee on the Rights of the Child recommended the State to "amend its legislation in order to eliminate any discrimination against girls, children born out of wedlock or following out-of-court marriages, and lesbian, gay, bisexual, transgender or intersex children", and "to use legislative, policy and educational measures, including sensitization and awareness-raising, to end stigmatization" of such children.

MYANMAR



NRHI



Penal Code, Act 45/1860, Revised Edition.

Section 377

[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 transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

Sexual orientation and gender identity was not mentioned in Myanmar's 1st cycle UPR in November 2010. However, the National Human Rights Commission was established in 2011 and given force in 2014. One commissioner **attended** the UN Asia-Pacific conference on Human Rights, Sexual Orientation and Gender Identity in 2015, although state-sponsored homophobia **continues** to the present time.

In its 2nd cycle UPR in November 2015, two recommendations were made to repeal Section 377 by Australia and Spain. It appears that the delegation **offered** no response to these, other than 'noting' (rejecting) them.