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State Homophobia

A world survey of laws
prohibiting same sex activity
between consenting adults

Daniel Ottosson

an ILGA report
in association with
LBL - the National Gay & Lesbian
Association of Denmark

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Homophobia is the fear of, aversion to, or discrimination against homosexuality or homosexuals. The hatred, hostility, or disapproval of homosexual people.

The impressive collection of laws presented in this report is an attempt to show the extent of State homophobia in the world. In 2007, no less than 85 member states of the United Nations still criminalize consensual same sex acts among adults, thus institutionally promoting a culture of hatred. With this publication, we hope to raise awareness about this reality which extent remains unknown to the vast majority of people.

Although many of the countries listed in the report do not systematically implement those laws, their mere existence reinforces a culture where a significant portion of the citizens need to hide from the rest of the population out of fear. A culture where hatred and violence are somehow justified by the State and force people into invisibility or into denying who they truly are.

Whether imported by colonial empires or the result of legislations culturally shaped by religious beliefs, if not deriving directly from a conservative interpretation of religious texts, homophobic laws are the fruit of a certain time and context in history. Homophobia is cultural. Homophobia is not inborn. We learn it as we grow.

In many cases, "prejudice against homosexual people" is the result of ignorance and fear. This long catalogue of horrors is but a tale of the intolerance against what is foreign and different.

On occasion of May 17th, the International Day against Homophobia, we take this opportunity to praise the work of human rights defenders who tirelessly fight against injustice and challenge homophobia, lesbophobia and transphobia which surround us.

Decriminalization of same sex activity is as urgent as ever. The fight for the respect of every minority has to be everyone's fight. We believe that the recognition of sexual minorities as civil components of our societies and the acknowledgement of the equality of their human rights can contribute to learning how to live together, that is, the learning of democracy.

Rosanna Flamer Caldera & Philipp Braun
Co-secretaries generals of ILGA, the International Lesbian and Gay Association

The International Lesbian and Gay Association is a world-wide network of national and local groups dedicated to achieving equal rights for lesbian, gay, bisexual and transgendered (LGBT) people everywhere.

Founded in 1978, it now has more than 560 member organisations. Every continent and around 90 countries are represented. ILGA is to this day the only international non-governmental community-based federation focused on fighting discrimination on grounds of sexual orientation as a global issue.

www.ilga.org

LBL - the National Gay & Lesbian Association of Denmark

www.lbl.dk

Information is one of the most important tools in effective human rights work, whether it is performed by protest campaigns, lobbying, parliamentary work or diplomacy.

However, to collect information on the legal situation regarding LGBT issues can be hard as laws are changed all the time, and due to untrustworthy or nonexistent sources on the topic. Therefore, we aim by this survey to give as updated and correct information as possible on the topic on legislation criminalizing homosexual acts.

The compiled survey is based on factual macro and micro studies of the legal systems and the laws in detail, or from second hand sources when the legal texts have not been possible to obtain. Due to the fact that the survey aims to present the most updated information, most of the sources used are from governmental and non-governmental web sites and not from books. The survey only deals with legislation criminalizing consensual sexual acts between persons of the same sex in private above the age of consent. Laws dealing with such acts in public, with under aged people, with force or by any other reason are not included. Nor does it include countries where such acts are legal.

Note that consensual sexual acts between persons of the same sex in private were decriminalized in Cape Verde in 2004,¹ Marshall Islands in 2004,² Fiji in 2005³ and Puerto Rico in 2005,⁴ and that article 113 in the Mongolian Penal Code, previously criminalizing “Satisfaction of sexual desire in unnatural manner” is modified as of the Penal Code of 2002, and cannot be applied to consensual homosexual acts in private anymore.⁵ Please do also note that the Chechen Republic Criminal Code of 1996 which criminalizes same-sex activities is not in force anymore, as Russian laws are applied. Therefore same-sex relations are not prohibited in Chechen Republic.

Some legislation, for example the laws criminalizing same-sex acts in Lesotho, Namibia and Swaziland refers to common law. Common law is an Anglo-American legal system that is based on precedent court verdicts and not written legislation.

References to all legislation can be found in the foot notes, the foot note list and the source list in the end of the survey.

If you have any additional information not available in this survey, we would be grateful if you could contact us at information@ilga.org, and we will investigate the matter.

The research is conducted by Daniel Ottosson, Public Law at Södertörn University College, Stockholm, Sweden. This ILGA report is copyright free provided you mention both the author and ILGA, the International Lesbian and Gay Association. Free digital versions of the report in Word format are available for groups to print. We wish to thank the many volunteers who translated this report in Spanish, French and Portuguese.

Afghanistan

Male/Male Illegal

Female/Female Illegal

Penal Code, 1976⁶

CHAPTER EIGHT: Adultery, Pederasty, and Violations of Honour

Article 427: (1) "A person who commits adultery or pederasty shall be sentenced to long imprisonment.

(2) In one of the following cases commitment of the acts, specified above, is considered to be aggravating conditions:

- a. In the case where the person against whom the crime has been committed is not yet eighteen years old.
- b. ..."

Note that Islamic Sharia law, criminalizing homosexual acts with a maximum of death penalty, is applied together with the codified Penal law. However, no death sentences have been handed out after the end of Taliban rule, although it is still technically possible.

Algeria

Male/Male Illegal

Female/Female Illegal

Penal Code (Ordinance 66-156 of June 8, 1966)⁷

Art. 338 - "Tout coupable d'un acte d'homosexualité est puni d'un emprisonnement de deux mois à deux ans et d'une amende de 500 à 2000 DA.

Si l'un des auteurs est mineur de dix-huit ans, la peine à l'égard du majeur peut être élevée jusqu'à trois ans d'emprisonnement et 10.000DA d'amende."

English translation:⁸

Article 338

"Anyone guilty of a homosexual act is punishable with imprisonment of between 2 months and two years, and with a fine of 500 to 2000 Algerian Dinars.

If one of the participants is below 18 years old, the punishment for the older person can be raised to 3 years' imprisonment and a fine of 10,000 dinars".

Angola

Male/Male Illegal

Female/Female Illegal

Penal Code of September 16, 1886⁹ (Inherited from the Portuguese colonial era)

Articles 70 and 71 ad security measures on people who habitually practice acts against the order of nature, stating such people shall be sent to labor camps.

For text of the law in Portuguese - see Mozambique section!

Antigua and Barbuda

Male/Male Illegal

Female/Female Illegal

Sexual Offences Act of 1995 (Act No. 9)¹⁰

Buggery

Article 12.

“(1) A person who commits buggery is guilty of an offences and is liable on conviction to imprisonment -

- (a) for life, if committed by an adult on a minor;
- (b) for fifteen years, if committed by an adult on another adult;
- (c) for five years, if committed by a minor.

(2) In this section "buggery" means sexual intercourse per anum by a male person with a male person or by a male person with a female person.

Serious indecency

Article 15. (1) "A person who commits an act of serious indecency on or towards another is guilty of an offences and is liable on conviction to imprisonment -

- (a) for ten years, if committed on or towards a minor under sixteen years of age;
 - (b) for five years, if committed on or towards a person sixteen years of age or more,
- (2) Subsection (1) does not apply to an act of serious indecency committed in private between -
- (a) a husband and his wife; or
 - (b) a male person and a female person each of whom is sixteen years of age or more;
- (3) An act of "serious indecency" is an act, other than sexual intercourse (whether natural or unnatural), by a person involving the use of genital organ for the purpose of arousing or gratifying sexual desire.

(This last article is applied also to lesbian acts.)

Bahrain

Male/Male Illegal

Female/Female Legal

Penal Code of 1976, Legislative Decree No. 15

“Buggery is an illegal act punished by 10 years of imprisonment maximum.”¹¹

Bangladesh

Male/Male Illegal

Female/Female Legal

Penal Code, 1860 (Act XLV of 1860)¹²

Section 377 “Unnatural Offences”

“Whoever voluntary has carnal intercourse against the order of nature with man, woman, or animal, shall be punished with imprisonment of either description which may extend to life, or up to 10 years, and shall also be liable to fine.

Explanation: Penetration is sufficient to constitute the offence as described in this section.”

Barbados

Male/Male Illegal

Female/Female Illegal

Sexual Offences Act 1992, Chapter 154¹³
Part I

Buggery

“9. Any person who commits buggery is guilty of an offence and is liable on conviction on indictment to imprisonment for life.”

Serious indecency

“12. (1) A person who commits an act of serious indecency on or towards another or incites another to commit that act with the person or with another person is guilty of an offence and, if committed on or towards a person 16 years of age or more or if the person incited is of 16 years of age or more, is liable on conviction to imprisonment for a term of 10 years.

(2) A person who commits an act of serious indecency with or towards a child under the age of 16 or incites the child under that age to such an act with him or another, is guilty of an offence and is liable on conviction to imprisonment for a term of 15 years.

(3) An act of “serious indecency” is an act, whether natural or unnatural by a person involving the use of the genital organs for the purpose of arousing or gratifying sexual desire.”

(This last article is applied also to lesbian acts.)

Belize

Male/Male Illegal

Female/Female Illegal

THE SUBSTANTIVE LAWS OF BELIZE REVISED EDITION 2003¹⁴
Criminal Code [CAP. 101]

Aggravated assault

Section 45.

“Every person who commits an unlawful assault of any of the following kinds, namely-

- (a) assault upon a person acting as a judicial officer or as a peace officer; or
- (b) assault upon a minister of religion acting in the execution of the duties of his office; or
- (c) assault upon a person in any court of justice, or assault upon a person in order to prevent him from doing, or on account of his doing or having done, anything as a party, agent, counsel, or witness, in any judicial proceeding; or
- (d) assault with a purpose to commit, or in committing or attempting to commit, any other crime; or
- (e) assault with any deadly or dangerous instrument or means; or
- (f) indecent assault on any person, whether male or female; or
- (g) assault upon any male child or any female of such a nature that it cannot in the opinion of the court be adequately punished under section 44, shall be guilty of an aggravated assault and, on conviction thereof, be liable to imprisonment for two years: Provided that in respect of an indecent assault upon a female or an aggravated assault upon any male child or any female, a person convicted under this section shall be liable to imprisonment for three years instead of two years.”

2. Rape and Like Crimes

Unnatural Crime

Section 53.

“Every person who has carnal intercourse against the order of nature with any person or animal shall be liable to imprisonment for ten years.”

Benin

Male/Male Illegal

Female/Female Illegal

Penal Code of 1996¹⁵

Article 88 - “Anyone who commits an indecent act or an act against nature with an individual of the same sex will be punished with 1 to 3 years prison and a fine of 100,000 to 500,000 francs.”

Bhutan

Male/Male Illegal

Female/Female Illegal

Bhutan Penal Code 2004¹⁶

Chapter 14, Sexual Offences

Unnatural sex

213. “A defendant shall be guilty of the offence of unnatural sex, if the defendant engages in sodomy or any other sexual conduct that is against the order of nature.”

Grading of unnatural sex

214. “The offence of unnatural sex shall be a petty misdemeanor.”

Chapter 2, Classification of Crimes

Classes of crime

3. "For the purpose of this Penal Code, the classes of crimes shall be as follows:

(c) A crime shall be petty misdemeanor, if it is so designated in this Penal Code or other laws and provides for a maximum term of imprisonment of less than one year and a minimum term of one month for the convicted defendant."

Botswana

Male/Male Illegal

Female/Female Illegal

Chapter 08:01 PENAL CODE¹⁷

“164. Unnatural offences

Any person who;

(a) has carnal knowledge of any person against the order of nature;

(b) has carnal knowledge of any animal; or

(c) permits any other person to have carnal knowledge of him or her against the order of nature, is guilty of an offences and is liable to imprisonment for a term not exceeding seven years.”

“165. Attempts to commit unnatural offences

Any person who attempts to commit any of the offences specified in section 164 is guilty of an offence and is liable to imprisonment for a term not exceeding five years.”

“167. Indecent practices between persons

Any person who, whether in public or private, commits any act of gross indecency with another person, or procures another person to commit any act of gross indecency with him or her, or attempts to procure the commission of any such act by any person with himself or herself or with another person, whether in public or private, is guilty of an offence.”

Note that section 167 was modified in 1998, now being gender neutral, also criminalizing sexual acts between women!

Brunei

Male/Male Illegal

Female/Female Legal

CHAPTER 22¹⁸

PENAL CODE

16 of 1951

(Cap. 22 of 1951)

1984 Ed. Cap. 22

revised edition 2001

Unnatural offences.

“377. Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall be punished with imprisonment for a term which may extend to 10 years, and shall also be liable to fine. [S 12/97]

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

Cameroon

Male/Male Illegal

Female/Female Illegal

Penal Code (Law No. 65-LF-24 of 12 November 1965 and law No. 67-LF-1 of 12 June 1967)

Article 347 bis prohibits sexual activities between persons of the same sex, with a penalty of imprisonment from six months to five years, and a fine of 20,000 to 200,000 francs.

Original French text:¹⁹

Art. 347 bis - Homosexualité

“Est puni d’un emprisonnement de six mois à cinq ans et d’une amende de 20.000 à 200.000 francs toute personne qui a des rapports sexuels avec une personne de son sexe.”

Cook Islands (New Zealand associate)

Male/Male Illegal

Female/Female Legal

Crimes Act 1969²⁰

154. Indecency between males -

“(1) Every one is liable to imprisonment for a term not exceeding five years who, bring a male,-

(a) Indecently assaults any other male; or

(b) Does any indecent act with or upon any other male; or

(c) Induces or permits any other male to do any indecent act with or upon him.

(2) No boy under the age of fifteen years shall be charged with committing or being a party to an offence against paragraph

(b) or paragraph (c) of subsection (1) of this section, unless the other male was under the age of twenty-one years.

(3) It is not defence to a charge under this section that the other party consented.”

155. Sodomy -

“(1) Every one who commits sodomy is liable-

(a) Where the act of sodomy is committed on a female, to imprisonment for a term not exceeding fourteen years;

(b) Where the act of sodomy is committed on a male, and at the time of the act that male is under the age of fifteen years and the offender is of over the age of twenty-one years, to imprisonment for a term not exceeding fourteen years;

(c) In any other case, to imprisonment for a term not exceeding seven years.

(2) This offence is complete upon penetration.

(3) Where sodomy is committed on any person under the age of fifteen years he shall not be charged with being a party to that offence, but he may be charged with being a party to an offence against section 154 of this Act in say case to which that section is applicable.

(4) It is no defence to a charge under this section that the other party consented.”

Note that Cook Islands is a New Zealand associate, and that the laws in Cook Islands are only applicable to the islands, and not to New Zealand!

Costa Rica

Male/Male Not illegal as such

Female/Female

Not illegal as such

Penal Code, Law N° 4573 and its reforms, of 4 March 1970²¹

"ARTICLE 382.- "It will be imposed from two to thirty days fines:

...15) For the one that practiced the sodomy in a scandalous form"

(Authors translation)

Original Spanish version:

Código Penal, Ley N° 4573 y sus reformas, del 4 Marzo de 1970

Titulo III: Contravenciones Contra las Buenas Costumbres

Seccion Unica

"ARTÍCULO 382.- Se impondrá de dos a treinta días multa:
...15) Al que practicare la sodomía en forma escandalosa"

Djibouti

Male/Male Illegal

Female/Female Illegal

Several sources verify that sexual intercourse between persons of the same sex is illegal in Djibouti.^{22 23}

The relevant articles of the Penal Code of 1995 are articles 347-352 criminalizing "impudent acts" (un acte impudique) under the crimes section of "L'attentat à la pudeur".²⁴

Democratic Republic of Congo

Male/Male Not illegal as such

Female/Female

Not illegal as such

Décret du 30 janvier 1940 portant code pénal²⁵

Homosexual acts are not banned as such, but article 172 criminalizing offences against the moral can be used against same-sex contacts. Violations of the statute are punished with between three months to five years imprisonment and a fine.

Original French text:

"SECTION III : DES ATTENTATS AUX MOEURS

Article 172 :

Quiconque aura attenté aux mœurs en excitant, facilitant ou favorisant pour satisfaire les passions d'autrui, la débauche ou la corruption des personnes de l'un ou de l'autre sexe, âgées ou apparemment âgées de moins de vingt et un ans, sera puni d'une servitude pénale de trois mois à cinq ans et d'une amende de cinquante à mille zaires.

L'âge des personnes pourra être déterminé notamment par examen médical, à défaut d'état civil."

Dominica

Male/Male Illegal

Female/Female Illegal

Sexual Offences Act 1998²⁶

Article 14

"Any person who commits an act of gross indecency with another person is guilty of an offense and is liable on conviction to imprisonment for five years."

Article 15

Buggery (for both men and women) - up to ten years imprisonment. The court may also commit the offender to a Psychological Hospital instead of to imprisonment.

Article 16

Attempted buggery - up to four years imprisonment.

Egypt

Male/Male Not illegal as such **Female/Female** Not illegal as such

Sexual intercourse between consenting adult persons of the same sex in private is not prohibited as such. However, Law 10/1961, aimed at combating prostitution has recently been used against gay men for arrests, prosecutions and convictions.

Law n° 10, 1961 on 'Combating of prostitution, incitement and its encouragement'²⁷
Article 9 (c)

"Anyone who habitually engages in debauchery or prostitution is liable to a penalty of three months to three years imprisonment and/or a fine of LE 25-300".

Eritrea

Male/Male Illegal **Female/Female** Illegal

Penal Code of 1957²⁸ (Inherited from Ethiopian rule)

"Section II. – Sexual Deviations

Art. 600. – Unnatural Carnal Offences.

(1) Whosoever performs with another person of the same sex an act corresponding to the sexual act, or any other indecent act, is punishable with simple imprisonment.

(2) The provisions of Art. 597 are applicable where an infant or young person is involved."

"Sub-paragraph 2. Penalties entailing loss of Liberty

Art.105.- Simple Imprisonment.

(1) simple imprisonment is a sentence applicable to offences of a not very serious nature committed by persons who are not a serious danger to society.

It is intended as a measure of safety to the general public and as a punishment to the offender.

Subject to any special provision of law and without prejudice to conditional release, simple imprisonment may extend for a period of from ten days to three years; such period shall be fixed by the court.

(2) The sentence of simple imprisonment shall be served in such prison or in such section thereof as is appointed for the purpose."

Ethiopia

Male/Male Illegal **Female/Female** Illegal

The Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No. 414/2004²⁹

Section II.- SEXUAL DEVIATIONS

Article 629.- Homosexual and other Indecent Acts.

"Whoever performs with another person of the same sex a homosexual act, or any other indecent act, is punishable with simple imprisonment."

Article 630.- General Aggravation to the Crime.

"(1) The punishment shall be simple imprisonment for not less than one year, or, in grave cases, rigorous imprisonment not exceeding ten years, where the criminal:

a) takes unfair advantage of the material or mental distress of another or of the authority he

exercises over another by virtue of his position, office or capacity as guardian, tutor, protector, teacher, master or employer, or by virtue of any other like relationship, to cause such other person to perform or to submit to such an act; or

b) makes a profession of such activities within the meaning of the law (Art. 92).

(2) The punishment shall be rigorous imprisonment from three years to fifteen years, where:

a) the criminal uses violence, intimidation or coercion, trickery or fraud, or takes unfair advantage of the victim's inability to offer resistance or to defend himself or of his feeble-mindedness or unconsciousness; or

b) the criminal subjects his victim to acts of cruelty or sadism, or transmits to him a venereal disease with which he knows himself to be infected; or

c) the victim is driven to suicide by distress, shame or despair.”

Gambia

Male/Male	Illegal	Female/Female	Legal
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Criminal Code 1965, Revised Laws 1990³⁰

Chapter XV, Offences Against Morality

Article 144: Unnatural offences

“Any person who—

(a) has carnal knowledge of any person against the order of nature; or

(b) has carnal knowledge of an animal; or

(c) permits a male person to have carnal knowledge of him or her against the order of nature; is guilty of a felony, and is liable to imprisonment for a term of 14 years.”

Gaza (Part of Palestinian Authority)

Male/Male	Illegal	Female/Female	Legal
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The British Mandate Criminal Code Ordinance, No. 74 of 1936 is in force in Gaza.³¹

Section 152(2) of the Code criminalizes sexual acts between men³² with a penalty of up to 10 years.³³

(This Code was in force also in Jordan till 1951 and in Israel till 1977, before they adopted their own Penal Codes.)

Note that in the West Bank, however, the Jordanian Penal Code of 1951, largely modified in 1960 is in force, having no prohibition on sexual acts between persons of the same sex.

Ghana

Male/Male	Illegal	Female/Female	Legal
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Criminal Code, 1960 (Act 29), as amended to 2003³⁴

“Section 104—Unnatural Carnal Knowledge.

(1) Whoever has unnatural carnal knowledge—

(a) of any person of the age of sixteen years or over without his consent shall be guilty of a first degree felony and shall be liable on conviction to imprisonment for a term of not less than five years and not more than twenty-five years; or

Criminal Law (Offences) Act

Committing acts of gross indecency with male person

Section 352

“Any male person, who in public or private, commits, or is a party to the commission, or procures or attempts to procure the commission, by any male person, of an act of gross indecency with any other male person shall be guilty of misdemeanour and liable to imprisonment for two years.”

Attempt to commit unnatural offences

Section 353

“Everyone who -

- (a) attempts to commit buggery; or
 - (b) assaults any person with the intention to commit buggery; or
 - (c) being a male, indecently assaults any other male person,
- shall be guilty of felony and liable to imprisonment for ten years.”

Buggery

Section 354

“Everyone who commits buggery, either with a human being or with any other living creature, shall be guilty of felony and be liable to imprisonment for life.”

India

Male/Male Illegal	Female/Female Legal
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THE INDIAN PENAL CODE, 1860, ACT NO. 45⁴²

Unnatural offences.

377. “Unnatural offences.--Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with 1*[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

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

Indonesia

Male/Male Legal*	Female/Female Legal*
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Same-sex acts are legal according to the national Penal Code. The only provision to deal with same-sex acts is article 292 which prohibits sexual acts between persons of the same sex, if committed with a person under the legal age.⁴³ However, in 2002, the Aceh province was given the right to instate Islamic Sharia by laws by the national parliament. Such law does apply to Muslims only. Hereto, for example the city of Palembang in South Sumatra has introduced jail time and hefty fines for homosexual acts.⁴⁴

Iran

Male/Male Illegal

Female/Female Illegal

Islamic Penal Code of Iran of 1991⁴⁵

“Part 2: Punishment for Sodomy

Chapter 1: Definition of Sodomy

Article 108: Sodomy is sexual intercourse with a male.

Article 109: In case of sodomy both the active and the passive persons will be condemned to its punishment.

Article 110: Punishment for sodomy is killing; the Sharia judge decides on how to carry out the killing.

Article 111: Sodomy involves killing if both the active and passive persons are mature, of sound mind and have free will.

Article 112: If a mature man of sound mind commits sexual intercourse with an immature person, the doer will be killed and the passive one will be subject to Ta’azir of 74 lashes if not under duress.

Article 113: If an immature person commits sexual intercourse with another immature person, both of them will be subject to Ta’azir of 74 lashes unless one of them was under duress.”

Chapter 2: Ways of proving sodomy in court

“Article 114: By confessing four lashes to having committed sodomy, punishment is established against the one making the confession.

Article 115: A confession made less than four lashes (to having committed sodomy) does not involve punishment of “Had” but the confessor will be subject to Ta’azir (lesser punishments).

Article 116: A confession is valid only if the confessor is mature, of sound mind, has will and intention.

Article 117: Sodomy is proved by the testimony of four righteous men who might have observed it.

Article 118: If less than four righteous men testify, sodomy is not proved and the witnesses shall be condemned to punishment for Qazf (malicious accusation).

Article 119: Testimony of women alone or together with a man does not prove sodomy.

Article 120: The Sharia judge may act according to his own knowledge which is derived through customary methods.

Article 121: Punishment for Tafhiz (the rubbing of the thighs or buttocks) and the like committed by two men without entry, shall be hundred lashes for each of them.

Article 122: If Tafhiz and the like are repeated three lashes without entry and punishment is enforced after each time, the punishment for the fourth time would be death.

Article 123: If two men not related by blood stand naked under one cover without any necessity, both of them will be subject to Ta’azir of up to 99 lashes.

Article 124: If someone kisses another with lust, he will be subject to Ta’azir of 60 lashes.

Article 125: If the one committing Tafhiz and the like or a homosexual man, repents before the giving of testimony by the witnesses, his punishment will be quashed; if he repents after the giving of testimony, the punishment will not be quashed.

Article 126: If sodomy or Tafhiz is proved by confession and thereafter he repents the Sharia judge may request the leader (Valie Amr) to pardon him.”

Part 3: Lesbianism

“Article 127: Mosaheqeh (lesbianism) is homosexuality of women by genitals.

Article 128: The ways of proving lesbianism in court are the same by which the homosexuality (of men) is proved.

Article 129: Punishment for lesbianism is hundred (100) lashes for each party.

Article 130: Punishment for lesbianism will be established vis-a -vis someone who is mature, of sound mind, has free will and intention.

Note: In the punishment for lesbianism there will be no distinction between the doer and the subject as well as a Muslim or non-Muslim.

Article 131: If the act of lesbianism is repeated three lashes and punishment is enforced each time, death sentence will be issued the fourth time.

Article 132: If a lesbian repents before the giving of testimony by the witnesses, the punishment will be quashed; if she does so after the giving of testimony, the punishment will not be quashed.

Article 133: If the act of lesbianism is proved by the confession of the doer and she repents accordingly, the Sharia judge may request the leader (ValieAmr) to pardon her.

Article 134: If two women not related by consanguinity stand naked under one cover without necessity, they will be punished to less than hundred (100) lashes (Ta’azir). In case of its repetition as well as the repetition of punishment, hundred (100) lashes will be hit the third time.”

Part 4: Punishment for Pimping

“Article 135: Pimping means that someone brings two individuals together or puts them in contact with each other for fornication or homosexuality.

Article 136: Pimping is proved by two confessions if the confessor is mature, of sound mind has free will and intention.

Article 137: Pimping is proved by the testimony of two righteous men.

Article 138: Punishment of a man for pimping is seventy (70) lashes and exile from the place of (his) domicile for a period of 3 months up to one year and punishment of pimping by a woman is seventy five (75) lashes only.”

Iraq

Male/Male Legal*

Female/Female Legal*

Iraq reinstated the Penal Code of 1969 after the American invasion in 2003. The Penal Code does not prohibit sexual activities between consenting adults of the same sex.⁴⁶ However, as the country is under war, and law enforcement is not functioning properly, death squads operate in the country, killing homosexuals.⁴⁷

Jamaica

Male/Male Illegal

Female/Female Legal

The Offences Against the Person Act⁴⁸

Article 76 (Unnatural Crime)

"Whosoever shall be convicted of the abominable crime of buggery [anal intercourse] committed either with mankind or with any animal, shall be liable to be imprisoned and kept to hard labour for a term not exceeding ten years."

Article 77 (Attempt)

"Whosoever shall attempt to commit the said abominable crime, or shall be guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for a term not exceeding seven years, with or without hard labour."

Article 78 (Proof of Carnal Knowledge)

"Whenever upon the trial of any offence punishable under this Act, it may be necessary to prove carnal knowledge, it shall not be necessary to prove the actual emission of seed in order to constitute a carnal knowledge, but the carnal knowledge shall be deemed complete upon proof of penetration only."

Article 79 (Outrages on Decency)

"Any male 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 male person of, any act of gross indecency with another male person, shall be guilty of a misdemeanor, and being convicted thereof shall be liable at the discretion of the court to be imprisoned for a term not exceeding 2 years, with or without hard labour."

Kenya

Male/Male Illegal

Female/Female Legal

Cap.63 Penal Code⁴⁹

"162. Any person who—

(a) has carnal knowledge of any person against the order of nature; or

(b) has carnal knowledge of an animal; or

is guilty of a felony and is liable to imprisonment for fourteen years:

Provided that, in the case of an offence under paragraph (a), the offender shall be liable to imprisonment for twenty-one years if—

(i) the offence was committed without the consent of the person who was carnally known; or

(ii) the offence was committed with that person's consent but the consent was obtained by force or by means of threats or intimidation of some kind, or by fear of bodily harm, or by means of false representations as to the nature of the act."

"163. Any person who attempts to commit any of the offences specified in section 162 is guilty of a felony and is liable to imprisonment for seven years."

"165. Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, is guilty of a felony and is liable to imprisonment for five years."

(Articles amended by Act No. 5 of 2003)

Kiribati

Male/Male Illegal

Female/Female Legal

Laws of the Gilbert Islands⁵⁰

Penal Code [Cap 67] Revised Edition 1977

Unnatural Offences

153. "Any person who-

(a) commits buggery with another person or with an animal; or

(b) permits a male person to commit buggery with him or her,

shall be guilty of a felony, and shall be liable to imprisonment for 14 years."

Attempts to commit unnatural offences and indecent assaults

154. "Any person who attempts to commit any of the offences it specified in the last preceding section, or who is guilty of any assault with intent to commit the same, or any indecent assault upon any male person shall be guilty of a felony, and shall be liable to imprisonment for 7 years."

Indecent practices between males

155. "Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, shall be guilty of a felony, and shall be liable to imprisonment for 5 years."

Kuwait

Male/Male Illegal

Female/Female Legal

Penal Code, Law No. 16 of June 2, 1960, as amended in 1976⁵¹

Article 193

Sexual intercourse between men over the age of 21 - up to seven years imprisonment.

Article 192

Sexual intercourse with a boy or a girl under the age of 21 - up to ten years imprisonment.

Lebanon

Male/Male Illegal

Female/Female Illegal

Penal Code of 1943, as amended in 2003⁵²

Article 534

"Punishment of all sexual relations that are unnatural with imprisonment from one month to one year, and a fine ranging between LBP200,000 and one million Lebanese pounds".

Malaysia

Male/Male Illegal

Female/Female Legal*

Penal Code (Act No. 574) (Consolidated Version with amendments as of November 15, 1998)⁵⁸

Unnatural Offences

377A. Carnal intercourse against the order of nature.

“Any person who has sexual connection with another person by the introduction of the penis into the anus or mouth of the other person is said to commit carnal intercourse against the order of nature.

Explanation

Penetration is sufficient to constitute the sexual connection necessary to the offence described in this section.”

377B. Punishment for committing carnal intercourse against the order of nature.

“Whoever voluntarily commits carnal intercourse against the order of nature shall be punished with imprisonment for a term which may extend to twenty years, and shall also be liable to whipping.”

377C. Committing carnal intercourse against the order of nature without consent, etc.

“Whoever voluntarily commits carnal intercourse against the order of nature on another person without the consent, or against the will, of the other person, or by putting other person in fear of death or hurt to the person or any other person, shall be punished with imprisonment for a term of not less than five years and not more than twenty years, and shall also be liable to whipping.”

377D. Outrages on decency.

“Any person who, in public or private, commits, or abets 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 punished with imprisonment for a term which may extend to two years.”

Hereto, several states in Malaysia have instated Islamic Sharia laws, applying to male and female muslims, criminalizing homosexual and lesbian acts with up to three years imprisonment and whipping.⁵⁹ The Sharia Penal law in the Malaysian state of Syriah prescribes penalties for sodomy (Liwat) and lesbian sex (Musahaqat) with fines of RM5,000.00, three years imprisonment and 6 lashes of the whip. All these penalties can be combined.⁶⁰

Maldives

Male/Male Illegal

Female/Female Illegal

Sexual acts between men and between women are not regulated by the Penal Code, but are prohibited by Islamic Sharia law applicable to Maldives along with civil law, with penalties decided by Islamic courts.⁶¹ 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.⁶² There have been reports of women being sentenced to a whipping as well for lesbian acts.⁶³

Mauritania

Male/Male Illegal

Female/Female Illegal

The Penal Code of 1984 (Ordonnance no. 83-162 du juillet 1984 portant institution du code pénal)⁶⁴

“ART. 308. - All adult muslim men who commit an impudent act against nature with an individual of his sex will face the penalty of death by public stoning. If it is a question of two women, they will be punished as prescribed in article 306, first paragraph”.

(Authors translation)

Original French texts:

“ART. 308. - Tout musulman majeur qui aura commis un acte impudique ou contre nature avec un individu de son sexe sera puni de peine de mort par lapidation publique. S'il s'agit de deux femmes, elles seront punies de la peine prévue à l'article 306, paragraphe premier.”

“ART. 306. - Toute personne qui aura commis un outrage public à la pudeur et aux moeurs islamiques ou a violé les lieux sacrés ou aidé à les violer, si d t t e action ne figure pas dans les crimes emportant la Ghissass ou la Diya, sera punie d'une peine correctionnelle de trois mois à deux ans d'emprisonnement et d'une amende de 5 000 à 60000 UM. Tout musulman coupable du crime d'apostasie, soit par parole, soit par action de façon apparente ou évidente, sera invite à se repentir dans un délai de trois jours. S'il ne se repent pas dans ce délai, il est condamné à mort en tant qu'apostat, et ses biens seront confisqués au profit du Trésor. S'il se repent avant l'exécution de cette sentence, le parquet saisira ia Cour suprême, à l'effet de sa réhabilitation dans tous ses droits, sans préjudice d'une peine correctionnelle prévue au le' paragraphe du présent article.

Toute personne coupable du crime d'apostasie (Zendagha) sera, à moins qu'elle ne se repente au préalable, punie de la peine de mort. Sera punie d'une peine d'emprisonnement d'un mois à deux ans, toute personne qui sera coupable du crime d'attentat à la pudeur. Tout musulman majeur qui refuse de prier tout en reconnaissant l'obligation de la prière sera invité à s'en acquitter jusqu'à la limite du temps prescrit pour l'accomplissement de la prière obligatoire concernée. S'il persiste dans son refus jusqu'à la fin de ce délai, il sera puni de la peine de mort. S'il ne reconnaît pas l'obligation de la prière, il sera puni de la peine pour apostasie et ses biens confisqués au &bfit du Trésor public. 11 ne bénéficiera pas de l'office consacré par le rite musulman.”

Mauritius

Male/Male Illegal

Female/Female Legal

Criminal Code⁶⁵

Section 250 Sodomy and bestiality

“Any person who is guilty of the crime of sodomy or bestiality shall be liable to penal servitude for a term not exceeding 5 years.”

Based on the definition of sodomy in the other former British colonies in Africa as Namibia, Swaziland and Zimbabwe which only covers anal intercourse; this is probably the situation for Mauritius as well.

Morocco

Male/Male Illegal

Female/Female Illegal

Penal Code of November 26, 1962⁶⁶

Article 489. Any person who commits lewd or unnatural acts with an individual of the same sex shall be punished with a term of imprisonment of between six months and three years and a fine of 120 to 1,000 dirhams, unless the facts of the case constitute aggravating circumstances.

Mozambique

Male/Male Illegal

Female/Female Illegal

Penal Code of September 16, 1886 (Inherited from the Portuguese colonial era)⁶⁷

Articles 70 and 71 ad security measures on people who habitually practice acts against the order of nature, stating such people shall be sent to labor camps.

Original Portuguese version:

“ARTIGO 70°

(Medidas de segurança)

São medidas de segurança:

1° . - O internamento em manicómio criminal;

2° . - O internamento em casa de trabalho ou colónia agrícola;

3° . - A liberdade vigiada;

4° . - A caução de boa conduta;

5° . - A interdição do exercício de profissão;

§ 1° . - O internamento em manicómio criminal de delinquentes perigosos será ordenado na decisão que declarar irresponsável e perigoso o delinquente nos termos do § único do artigo 68° .

§ 2° . - O internamento em casa de trabalho ou colónia agrícola entende-se por período indeterminado de seis meses a três anos. Este regime considera-se extensivo a quaisquer medidas de internamento, previstas em legislação especial.

§ 3° . - A liberdade vigiada será estabelecida pelo prazo de dois a cinco anos e implica o cumprimento das obrigações que sejam impostas por decisão judicial nos termos do artigo 121° . Na falta de cumprimento das condições de liberdade vigiada poderá ser alterado o seu condicionamento ou substituída a liberdade vigiada por internamento em casa de trabalho ou colónia agrícola por período indeterminado mas não superior, no seu máximo, ao prazo de liberdade vigiada ainda não cumprido.

§ 4° . - A caução de boa conduta será prestada por depósito da quantia que o juiz fixar, pelo prazo de dois a cinco anos. Se não puder ser prestada caução, será esta substituída por liberdade vigiada pelo mesmo prazo. A caução será perdida a favor do Cofre Geral dos Tribunais se aquele que a houver prestado tiver comportamento incompatível com as obrigações caucionadas, dentro do prazo que for estabelecido ou se, no mesmo prazo, der causa à aplicação de outra medida de segurança.

§ 5° . - A interdição duma profissão, mester, indústria ou comércio priva o condenado de capacidade para o exercício de profissão, mester, indústria, ou comércio, para os quais seja necessária habilitação especial ou autorização oficial. A interdição será aplicada pelo tribunal sempre que haja lugar a condenação em pena de prisão maior ou prisão por mais de seis meses por crimes dolosos cometidos no exercício ou com abuso de profissão, mester, indústria ou

comércio, ou com violação grave dos deveres correspondentes. A duração da interdição será fixada na sentença, entre o mínimo de um mês e o máximo de dez anos. Quando o crime perpetrado for punível com prisão, a duração máxima da interdição é de dois anos. O prazo da interdição conta-se a partir do termo da pena de prisão. O tribunal poderá, decorrido metade do tempo da interdição, e mediante prova convincente da conveniência da cessação da interdição, substituí-la por caução de boa conduta. O exercício de profissão, mester, comércio ou indústria interditos por decisão judicial é punível com prisão até um ano.”

”ARTIGO 71º

(Aplicação de medidas de seguranças)

São aplicáveis medidas de segurança:

- 1º. - Aos vadios, considerando-se como tais os indivíduos de mais de dezasseis anos e menos de sessenta que, sem terem rendimentos com que provejam ao seu sustento, não exercitem habitualmente alguma profissão ou mester em que ganhem efectivamente a sua vida e não provem necessidade de força maior que os justifique de se acharem nessas circunstâncias;
 - 2º. - Aos indivíduos aptos a ganharem a sua vida pelo trabalho, que se dediquem, injustificadamente, à mendicidade ou explorem a mendicidade alheia;
 - 3º. - Aos rufiões que vivam total ou parcialmente a expensas de mulheres prostituídas;
 - 4º. - **Aos que se entreguem habitualmente à pratica de vícios contra a natureza;**
 - 5º. - Às prostitutas que sejam causa de escândalo público ou desobedeçam continuamente às prescrições policiais;
 - 6º. - Aos que mantenham ou dirijam casas de prostituição ou habitualmente frequentadas por prostitutas, quando desobedeçam repetidamente às prescrições regulamentares e policiais;
 - 7º. - Aos que favoreçam ou excitam habitualmente a depravação ou corrupção de menores, ou se dediquem ao aliciamento à prostituição, ainda que não tenham sido condenados por quaisquer factos dessa natureza;
 - 8º. - Aos indivíduos suspeitos de adquirirem usualmente ou servirem de intermediários na aquisição ou venda de objectos furtados, ou produto de crimes, ainda que não tenham sido condenados por receptadores, se não tiverem cumprido as determinações legais ou instruções policiais destinadas à fiscalização dos receptadores;
 - 9º. - A todos os que tiverem sido condenados por crimes de associação para delinquir ou por crime cometido por associação para delinquir, quadrilha ou bando organizado;
- § 1º. - O internamento, nos termos do n.º 2º e § 2º do artigo 70º, só poderá ter lugar pela primeira vez quando aos indivíduos indicados nos n.ºs. 1º, 2º, 7º e 9º.
- Aos indivíduos indicados nos n.ºs. 3º, 4º, 5º, 6º, e 8º será imposta, pela primeira vez, a caução de boa conduta ou a liberdade vigiada e, pela segunda, a liberdade vigiada com caução elevada ao dobro, ou o internamento.
- § 2º. - Os delinquentes que forem alcoólicos habituais e predispostos pelo alcoolismo para a prática de crimes, ou abusem de estupefacientes, poderão cumprir a pena em que tiverem sido condenados e ser internados após esse cumprimento em estabelecimento especial, em prisão-asilo ou em casa de trabalho ou colónia agrícola por período de seis meses a três anos. O internamento só pode ser ordenado na sentença que tiver condenado o delincente.
- § 3º. - Em relação aos estrangeiros, as medidas de segurança poderão ser substituídas pela expulsão do território nacional.
- § 4º. - A aplicação de medidas de segurança que não devam ser impostas em processo penal conjuntamente com a pena aplicável a qualquer crime ou em consequência de inimputabilidade do delincente, e bem assim a prorrogação e substituição de medidas de segurança, tem lugar em processo de segurança ou complementar, nos termos da respectiva legislação processual.”

Myanmar (Former Burma)

Male/Male Illegal **Female/Female** Legal

Penal Code, Act 45/1860, Volume VIII, Revised Edition⁶⁸

Section 377

“Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animals shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to 10 years, and shall be liable to fine.”

Namibia

Male/Male Illegal **Female/Female** Legal

Sodomy or “Unnatural sex crime” is prohibited as a common law offence.⁶⁹ It appears to cover only sexual acts between men.

Nauru

Male/Male Illegal **Female/Female** Legal

Criminal Code of Queensland in its application to Nauru^{70 71}

“208. Any person who:

- (1) Has carnal knowledge of any person against the order of nature; or
- (2) Has carnal knowledge of an animal; or
- (3) Permits a male person to have carnal knowledge of him or her against the order of nature; is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years”

Nepal

Male/Male Illegal **Female/Female** Illegal

Muluki Ain (Legal Code) Revised Edition 1963⁷²

Chapter 16, part No. 4

“Whoever commits or cause to commit any other unnatural sexual intercourse save as provided for in other numbers of this chapter shall be punished with an imprisonment up to one year or five thousand rupees.”

Nicaragua

Male/Male Illegal **Female/Female** Illegal

Penal Code/Código Penal⁷³

Article 204

Sodomy induced, promoted, propagandized or practiced in a scandalous way - one to three years imprisonment.

Original Spanish text:

Artículo. 204.- “Comete delito de sodomía el que induzca, promueva, propagandice o practique

en forma escandalosa el concúbito entre personas del mismo sexo. Sufrirá la pena de uno a tres años de prisión. Cuando uno de los que lo practican, aun en privado tuviere sobre el otro poder disciplinario o de mando, como ascendiente, guardador, maestro jefe, guardián en cualquier otro concepto que implique influencia de autoridad o de dirección moral, se le aplicará la pena de seducción ilegítima, como único responsable.”

Note that due to the text of the bill behind the law, the law aims also to cover same-sex acts in private.

Nigeria

Male/Male Illegal

Female/Female Legal*

Criminal Code Act, Chapter 77, Laws of the Federation of Nigeria 1990⁷⁴

214. “Any person who-

- (1) has carnal knowledge of any person against the order of nature; or
 - (2) has carnal knowledge of an animal; or
 - (3) permits a male person to have carnal knowledge of him or her against the order of nature;
- is guilty of a felony, and is liable to imprisonment for fourteen years.”

215. “Any person who attempts to commit any of the offences defined in the last preceding section is guilty of a felony, and is liable to imprisonment for seven years. The offender cannot be arrested without warrant.”

217. “Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, is guilty of a felony, and is liable to imprisonment for three years. The offender cannot be arrested without warrant.”

352. “Any person who assaults another with intent to have carnal knowledge of him or her against the order of nature is guilty of a felony, and is liable to imprisonment for fourteen years.”

353. “Any person who unlawfully and indecently assaults any male person is guilty of a felony, and is liable to imprisonment for three years. The offender cannot be arrested without warrant.”

Note that several Northern Nigerian states have adopted Islamic Sharia laws, criminalizing sexual activities between persons of the same sex. The maximum penalty for such acts between men is death penalty, while the maximum penalty for such acts between women is a whipping and/or imprisonment. These laws differ from the federal law, as most of these prohibit also sexual relations between women.

The states which have instated such laws are⁷⁵:

Bauchi (2001), Borno (2000), Gombe (2001), Jigawa (2000), Kaduna (2001), Kano (2000), Katsina (2000), Kebbi (2000), Niger (2000), Sokoto (2000), Yobe (2001) and Zamfara (2000).

(The year in bracket refers to when the law was adopted.)

Here is an example of one of these Penal Codes:

Zamfara State of Nigeria - Shari'ah Penal Code Law, 2000 (entered into operation on 27th day of January, 2000.)⁷⁶

CHAPTER VIII

Sodomy (Liwat)

130. Sodomy defined

“Whoever has carnal intercourse against the order of nature with any man or woman is said to commit the offence of sodomy: Provided that whoever is compelled by the use of force or threats or without his consent to commit the act of sodomy upon the person of another or be the subject of the act of sodomy, shall not be deemed to have committed the offence.”

131. Punishment for Sodomy

“Whoever commits the offence of sodomy shall be punished:-

(a) with caning of one hundred lashes if unmarried, and shall also be liable to imprisonment for the term of one year; or

(b) if married with stoning to death (rajm).

EXPLANATION: Mere penetration is sufficient to constitute carnal intercourse necessary to the offence of sodomy.”

Lesbianism (Sihaq)

134. Lesbianism defined

“Whoever being a woman engages another woman in carnal intercourse through her sexual organ or by means of stimulation or sexual excitement of one another has committed the offence of Lesbianism.”

135. Punishment for Lesbianism

“Whoever commits the offence of lesbianism shall be punished with caning which may extend to fifty lashes and in addition be sentenced to a term of imprisonment which may extend to six months.

EXPLANATION: The offence is committed by the unnatural fusion of the female sexual organs and or by the use of natural or artificial means to stimulate or attain sexual satisfaction or excitement.”

Gross Indecency

138. Acts of Gross Indecency

“Whoever commits an act of gross indecency upon the person of another without his consent or by the use of force or threats compels a person to join with him in the commission of such act shall be punished with caning of forty lashes and shall also be liable to imprisonment for a term of one year and may also be liable to fine: Provided that a consent given by a person below the age of fifteen years to such an act when done by his teacher, guardian or any person entrusted with his care or education shall not be deemed to be a consent within the meaning of this section.”

Palau

Male/Male Illegal

Female/Female Legal

Palau National Code 1990⁸⁰
Penal Code

Article 2803

Sodomy on either males or females - up to 10 years imprisonment. (Title 17.2803)

Based on the definition of sodomy in the other countries in the area, which only covers anal intercourse; this is probably the situation for Palau as well.

Panama

Male/Male Illegal

Female/Female Illegal

Sodomy is criminalized according to article 12 of Decree No. 149 of 1949, with a penalty from three months to 1 year imprisonment and a fine of between 50,00 and 500,00 dollars.⁸¹

Papua New Guinea

Male/Male Illegal

Female/Female Legal

Criminal Code 1974 (Consolidated in 2006)⁸²

“210. UNNATURAL OFFENCES.

(1) A person who-

(a) has carnal knowledge of any person against the order of nature; or

(b) has carnal knowledge of an animal; or

(c) permits a male person to have carnal knowledge of him or her against the order of nature, is guilty of a crime.

Penalty: Imprisonment for a term not exceeding 14 years.

(2) A person who attempts to commit an offence against Subsection (1) is guilty of a crime.”

Penalty: imprisonment for a term not exceeding seven years.

“212. INDECENT PRACTICES BETWEEN MALES.

(1) A male person who, whether in public or private-

(a) commits an act of gross indecency with another male person; or

(b) procures another male person to commit an act of gross indecency with him; or

(c) attempts to procure the commission of any such act by a male person with himself or with another male person, is guilty of a misdemeanour.

Penalty: Imprisonment for a term not exceeding three years.”

“336. ASSAULT WITH INTENT TO COMMIT UNNATURAL OFFENCE.

A person who assaults another person with intent to have carnal knowledge of him against the order of nature is guilty of a crime.

Penalty: Imprisonment for a term not exceeding 14 years.”

Qatar

Male/Male Illegal

Female/Female Illegal

The Penal Code (Act No. 11 of 2004)⁸³

Sexual acts with a female over the age of 16 are prohibited by article 281, while sexual acts with a male are prohibited by article 284. The penalty is up to seven years imprisonment for both female and male acts.

Saint Kitts and Nevis

Male/Male Illegal

Female/Female Legal

Offences against the Person Act

Section 56⁸⁴

“The abominable crime of buggery” - up to 10 years imprisonment, with or without hard labour.

Section 57⁸⁵

“Whosoever attempts to commit the said abominable crime, or is guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, is guilty of misdemeanour, and being convicted thereof shall be liable to be imprisoned for any term not exceeding four (4) years with or without hard labour.”

Saint Lucia

Male/Male Illegal

Female/Female Illegal

Criminal Code , No. 9 of 2004 (Effective January 1, 2005)⁸⁶

Sub-Part C – Sexual Offences

Gross Indecency

132.– “(1) Any person who commits an act of gross indecency with another person commits an offence and is liable on conviction on indictment to imprisonment for ten years or on summary conviction to five years.

(2) Subsection (1) does not apply to an act of gross indecency committed in private between an adult male person and an adult female person, both of whom consent.

(3) For the purposes of subsection (2) –

(a) an act shall be deemed not to have been committed in private if it is committed in a public place; and

(b) a person shall be deemed not to consent to the commission of such an act if –

(i) the consent is extorted by force, threats or fear of bodily harm or is obtained by false and fraudulent representations as to the nature of the act;

(ii) the consent is induced by the application or administration of any drug, matter or thing with intent to intoxicate or stupefy the person; or

(iii) that person is, and the other party to the act knows or has good reason to believe that the person is suffering from a mental disorder.

(4) In this section “gross indecency” is an act other than sexual intercourse (whether natural or unnatural) by a person involving the use of the genital organs for the purpose of arousing or

gratifying sexual desire.”

Buggery

133.— “(1) A person who commits buggery commits an offence and is liable on conviction on indictment to imprisonment for –

(a) life, if committed with force and without the consent of the other person;

(b) ten years, in any other case.

(2) Any person who attempts to commit buggery, or commits an assault with intent to commit buggery, commits an offence and is liable to imprisonment for five years.

(3) In this section “buggery” means sexual intercourse per anus by a male person with another male person.”

Saint Vincent and the Grenadines

Male/Male Illegal

Female/Female Illegal

Criminal Code, 1990⁸⁷

Section 146

Any person who "commits buggery [anal intercourse] with any other person" and any person who "commit buggery with him or her" is "liable to imprisonment for ten years".

Section 148

"Any person, who in public or private, commits an act of gross indecency with another person of the same sex, or procures or attempts to procure another person of the same sex to commit an act of gross indecency with him or her, is guilty of an offence and liable to imprisonment for five years."

São Tomé and Príncipe

Male/Male Illegal

Female/Female Illegal

Penal Code of September 16, 1886, (Inherited from the Portuguese colonial era)⁸⁸

Articles 70 and 71 ad security measures on people who habitually practice acts against the order of nature, stating such people shall be sent to labor camps.

For text of the law in Portuguese - see Mozambique section!

Saudi-Arabia

Male/Male Illegal

Female/Female Illegal

There is no codified Penal Law in Saudi-Arabia. Instead, the country applies the strict Islamic Sharia law. According to the interpretation sodomy is criminalized. For a married man the penalty is death by stoning, while the penalty for an unmarried man is 100 blows of the whip as well as banishment for a year. For a non-Muslim, who commits sodomy with a Muslim, the penalty is death by stoning. For conviction of sodomy, it must be proved either by confession of the culprit four times, or “testimony of four trustworthy Muslim men”.⁸⁹

Senegal

Male/Male Illegal

Female/Female Illegal

Penal Code (LOI DE BASE N° 65-60 DU 21 JUILLET 1965 PORTANT CODE PENAL)^{90 91}

Article 319:3

“Without prejudice to the more serious penalties provided for in the preceding paragraphs or by articles 320 and 321 of this Code, whoever will have committed an improper or unnatural act with a person of the same sex will be punished by imprisonment of between one and five years and by a fine of 100,000 to 1,500,000 francs. If the act was committed with a person below the age of 21, the maximum penalty will always be applied.”

Original French text:

Article 319:3

”Sans préjudice des peines plus graves prévues par les alinéas qui précèdent ou par les articles 320 et 321 du présent Code, sera puni d'un emprisonnement d'un à cinq ans et d'une amende de 100.000 à 1.500.000 francs, quiconque aura commis un acte impudique ou contre nature avec un individu de son sexe. Si l'acte a été commis avec un mineur de 21 ans, le maximum de la peine sera toujours prononcé.”

Seychelles

Male/Male Illegal

Female/Female Legal

Criminal Code⁹²

151. “Any person who -

- a. has carnal knowledge of any person against the order of nature; or
- b. has carnal knowledge of an animal; or
- c. permits a male person to have carnal knowledge of him or her against the order of nature, is guilty of a felony, and is liable to imprisonment for fourteen years.”

Sierra Leone

Male/Male Illegal

Female/Female Legal

Offences against the Person Act 1861⁹³

Section 61 of the above named act, criminalizes buggery and bestiality, with a penalty of life imprisonment.

Singapore

Male/Male Illegal

Female/Female Legal

Penal Code (Chapter 22) Revised Edition 1998⁹⁴

Unnatural offences.

377. “Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animals, shall be punished with imprisonment for life, or with imprisonment for a term which may extend to 10 years, and shall also be liable to fine.

Explanation.

Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.”

Outrages on decency.

377A. “Any male person who, in public or private, commits, or abets the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be punished with imprisonment for a term which may extend to 2 years.”

Solomon Islands

Male/Male Illegal

Female/Female Illegal

Laws of Solomon Islands (Revised Edition 1996)⁹⁵

Penal Code [Cap 26]

Unnatural offences

160. “Any person who-

(a) commits buggery with another person or with an animal; or

(b) permits a male person to commit buggery with him or her, shall be guilty of a felony, and shall be liable to imprisonment for fourteen years.”

Attempts to commit unnatural offences

161. “Any person who attempts to commit any of the offences specified in the last preceding section, or who is guilty of any assault with intent to commit the same, or any indecent assault upon any male person shall be guilty of a felony, and shall be liable to imprisonment for seven years.”

Indecent practices between persons of the same sex
9 of 1990, s. 2

162. “Any person who, whether in public or private -

(a) commits any act of gross indecency with another of the same sex;

(b) procures another of the same sex to commit any act of gross indecency; or

(c) attempts to procure the commission of any act of gross indecency by persons of the same sex, shall be guilty of a felony and be liable to imprisonment for five years.”

Somalia

Male/Male Illegal

Female/Female Illegal

Penal Code, Decree No. 5/1962 (Effective April 3, 1964)⁹⁶

“Article 409 Homosexuality

Whoever

(a) has carnal intercourse

(b) with a person of the same sex

shall be punished, where the act does not constitute a more serious crime, with imprisonment

from three months to three years.

Where

a) the act committed

b) is an act of lust different from carnal intercourse, the punishment imposed shall be reduced by one-third.”

“Article 410 Security Measures

A security measure may be added to a sentence for crimes referred to in Articles 407, 408, and 409.”

Sri Lanka

Male/Male Illegal

Female/Female Illegal

Penal Code of 1883 No 2 (Cap. 19)⁹⁷

Article 365 - “Voluntarily carnal intercourse with man, woman or animal against the order of nature - imprisonment for a term which may extend ten years.”

Article 365A (as introduced by the “Penal Code (Amendment) Act, No. 22 of 1995”)⁹⁸

“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.”

Sudan

Male/Male Illegal

Female/Female Illegal

The Penal Code 1991 (Act No. 8 1991)⁹⁹

Articles:

“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.”

“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.”

Swaziland

Male/Male Illegal

Female/Female Unclear

“Sodomy - it is sexual intercourse per anus between two human males” - is prohibited as a common law offence.¹⁰⁰

There are contradicting reports on if the common law prohibition also covers sexual acts between women. The ILGA World Legal Survey states that it covers both men and women¹⁰¹, but based on the common law prohibition on sodomy in other parts of Africa covering only “anal intercourse”, the information on female/female regulation is stated as unclear.

The Government has plans to include prohibitions of all male homosexual acts and lesbian acts in it's' revision of the Sexual Offences laws. The proposed penalties are imprisonment for a minimum period of two years, or a minimum fine of E5 000. It has, however, not been adopted yet.¹⁰²

Syria

Male/Male Illegal

Female/Female Unclear

Penal Code of 1949¹⁰³

Article 520. Any unnatural sexual intercourse shall be punished with a term of imprisonment of up to three years.

Tanzania

Male/Male Illegal

Female/Female Legal*

Penal Code of 1945 (As amended by the Sexual Offences Special Provisions Act, 1998)¹⁰⁴

154. Unnatural offences

“(1) Any person who-

(a) has carnal knowledge of any person against the order of nature; or

(b) has carnal knowledge of an animal; or

(c) permits a male person to have carnal knowledge of him or her against the order of nature commits an offence, and is liable to imprisonment for life and in any case to imprisonment for a term of not less than thirty years.

(2) where the offence under subsection (1) of this section is committed to a child under the age of ten years the offender shall be sentenced to life imprisonment.”

155. Attempt to commit unnatural offences

“Any person who attempts to commit any of the offences specified under section 154 commits an offence and shall on conviction be sentenced to imprisonment for a term not less than twenty years.”

Note that this federal law does not cover sexual activities between women. However, in Zanzibar, such acts are criminalized. See below for more details.

Penal Code of 1934 (As amended 2004. Amendments effective in August, 2004)^{105 106}

"A person who will be convicted of sodomy will be liable to 25 years imprisonment."

Hereto, the amendment prescribes penalties of up to seven years imprisonment or a fine of 700,000 shillings for sexual acts between women.

Togo

Male/Male Illegal

Female/Female Illegal

Penal Code of 13 August 1980¹⁰⁷

Article 88 - "Impudent acts and crimes against the nature with an individual of the same sex, is punished with three (03) years imprisonment and 100,000-500,000 franc in fine."

(Authors translation)

Original French text:

Art. 88 - "Sera puni d'un emprisonnement d'un à trois (03) ans et d'une amende de 100 000 à 500 000 francs quiconque aura commis un acte impudique ou contre nature avec un individu de son sexe."

Tokelau (New Zealand associate)

Male/Male Illegal

Female/Female Legal

Niue Act 1966¹⁰⁸

"170. Buggery -

(1) Every one is liable to imprisonment for 10 years who commits buggery either with a human being or with any other living creature.

(2) This offence is complete upon penetration.

Cf. 1915, No. 40, s. 206"

"171. Attempted buggery and indecent assaults on males -

(1) Every one is liable to imprisonment for 5 years who-

(a) Attempts to commit buggery; or

(b) Assaults any person with intent to commit buggery; or

(c) Being a male, indecently assaults any other male person.

(2) It is no defence to a charge of indecent assault on a male person of any age that he consented to the act of indecency.

Cf. 1915, No. 40, s. 207"

Note that according to the Tokelau Crimes Regulations 1975, parts V, VI and VII of Niue Act 1966 (which includes sections 170 and 171) is applicable to Tokelau as well, as Tokelau does not have its own Penal Code.¹⁰⁹ Also note that laws applicable to Tokelau, being a New Zealand associate, laws in Tokelau are not applicable to New Zealand!

Tonga

Male/Male Illegal

Female/Female Legal

Laws of Tonga¹¹⁰

Criminal Offences [Cap 18] 1988 Edition

Sodomy and bestiality.

136. “Whoever shall be convicted of the crime of sodomy with another person or bestiality with any animal shall be liable at the discretion of the Court to be imprisoned for any period not exceeding ten years and such animal shall be killed by a public officer.” (Substituted by Act 9 of 1987.)

Assault with intent to commit sodomy.

137. “It is an offence for a person to assault another person with intent to commit sodomy.” (Inserted by Act 9 of 1987.)

Attempted sodomy, indecent assault upon a male.

139. “Whoever shall attempt to commit the said abominable crime of sodomy or shall be guilty of an assault with intent to commit the same or of any indecent assault upon any male person shall be liable at the direction of the Court to imprisonment for any term not exceeding 10 years.”

Evidence.

140. “On the trial of any person upon a charge of sodomy or carnal knowledge it shall not be necessary to prove the actual emission of seed but the offence shall be deemed complete on proof of penetration only.”

Trinidad and Tobago

Male/Male Illegal

Female/Female Illegal

Sexual Offences Act, No. 27 of 1986 (Modified by Sexual Offences (Amendment) Act No. 31 of 2000)¹¹¹

Section 13 “Buggery”

Buggery committed an adult on another adult - 25 years imprisonment.

Section 16 “Abduction on a female”

Sexual acts between women - imprisonment for ten years for a first offence and to imprisonment for fifteen years for a subsequent offence.

Tunisia

Male/Male Illegal

Female/Female Illegal

Penal Code of 1913 (as modified)/Code pénal institué par le Décret du 9 juillet 1913 (tel que modifié)¹¹²

Article 230

“The sodomy, that is not covered by any of the other previous articles, is punished with imprisonment for three years”

(Authors translation)

Original French text:

Article 230. - “La sodomie, si elle ne rentre dans aucun des cas prévus aux articles précédents, est punie de l'emprisonnement pendant trois ans.”

Turkish Republic of Northern Cyprus

Male/Male Illegal

Female/Female Unclear

“Crimes against nature” is criminalized with a penalty of up to 14 years imprisonment. There are, however, plans to repeal the law.¹¹³

Turkmenistan

Male/Male Illegal

Female/Female Legal

Criminal Code of 1997 (Effective January 1, 1998)¹¹⁴

Article 135. Muzhelozhstvo

(1) “Muzhelozhstvo, that is the sexual relations of the man with the man, is punished by imprisonment for the term of up to two years.”

(Authors translation)

Russian text:

Статья 135. Мужеложство

(1) “Мужеложство, то есть половое сношение мужчины с мужчиной, наказывается лишением свободы на срок до двух лет.”

Tuvalu

Male/Male Illegal

Female/Female Legal

Laws of Tuvalu¹¹⁵

Penal Code [Cap 8] Revised Edition 1978

Unnatural offences

153. “Any person who-

(a) commits buggery with another person or with an animal; or

(b) permits a male person to commit buggery with him or her,

shall be guilty of a felony, and shall be liable to imprisonment for 14 years.”

Attempts to commit unnatural offences and indecent assault

154. “Any person who attempts to commit any of the offences specified in the last proceeding section, or who is guilty of any assault with intent to commit the same, or any indecent assault upon any male person shall be guilty of a felony, and shall be liable to imprisonment for 7 years.”

Indecent practices between males

155. “Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, shall be guilty of a felony, and shall be liable to imprisonment for 5 years.”

Uganda

Male/Male Illegal

Female/Female Illegal

The Penal Code Act of 1950 (Chapter 120)¹¹⁶

“145. Unnatural offences.

Any person who—

(a) has carnal knowledge of any person against the order of nature;

(b) has carnal knowledge of an animal; or

(c) permits a male person to have carnal knowledge of him or her against the order of nature, commits an offence and is liable to imprisonment for life.”

“146. Attempt to commit unnatural offences.

Any person who attempts to commit any of the offences specified in section 145 commits a felony and is liable to imprisonment for seven years.”

“148. Indecent practices.

Any person who, whether in public or in private, commits any act of gross indecency with another person or procures another person to commit any act of gross indecency with him or her or attempts to procure the commission of any such act by any person with himself or herself or with another person, whether in public or in private, commits an offence and is liable to imprisonment for seven years.”

United Arab Emirates

Male/Male Illegal

Female/Female Illegal

Federal Penal Code (FPC, Law No. 3 of 1987) (Effective March 21, 1988)¹¹⁷

Article 354. Irrespective of the provisions of the Act on Delinquent and Vagrant Juveniles, any person who forcibly engages in sexual intercourse with a woman, or a homosexual act with a homosexual, shall be punished with the death penalty. Coercion shall be recognised if the condemned person was fourteen years of age at the time of the commission of the offence.

Uzbekistan

Male/Male Illegal

Female/Female Legal

Criminal Code of 1994 (Effective April 1, 1995) (As amended to 1999)¹¹⁸

CHAPTER 4. SEXUAL CRIMES

“Article 120. Besoqolbozlik* (Homosexual Intercourse)

Besoqolbozlik, that is, voluntary sexual intercourse of two male individuals - shall be punished with imprisonment up to three years.”

Western Samoa

Male/Male Illegal

Female/Female Legal

Laws of Western Samoa, 1996 Reprint¹¹⁹

Crimes Ordinance 1961

[58D. “Indecency between males-

(1) Every one is liable to imprisonment for a term not exceeding 5 years who, being a male-

(a) Indecently assaults any other male; or

(b) Does any indecent act with or upon any other male; or

(c) Induces or permits any other male to do any indecent act with or upon him.

(2) No boy under the age of 16 years shall be charged with committing or being a party to an offence against paragraph (b) or paragraph (c) of subsection (1) of this section, unless the other male was under the age of 21 years.

(3) It is no defence to a charge under this section that the other party consented.”

Cf. 1961, No. 43, s. 141 (N.Z.)

[58E. “Sodomy-

(1) Every one who commits sodomy is liable-

(a) Where the act of sodomy is committed on a female, to imprisonment for a term not exceeding 7 years;

(b) Where the act of sodomy is committed on a male, and at the time of the act that male is under the age of 16 years and the offender is of or over the age of 21 years, to imprisonment for a term not exceeding 7 years;

(c) In any other case, to imprisonment for a term not exceeding 5 years.

(2) This offence is complete upon penetration.

(3) Where sodomy is committed on any person under the age of 16 years he shall not be charged with being a party to that offence, but he may be charged with being a party to an offence against section 58D of this Act in any case to which that section is applicable.

(4) It is no defence to a charge under this section that the other party consented.”

[58G. “Attempts to commit sodomy or bestiality-

Every one is liable to imprisonment for a term not exceeding 5 years who-

(a) Attempts to commit sodomy or bestiality; or

(b) Assaults any person with intent to commit sodomy.”

Cf. 1961, No. 13, s. 48

Yemen

Male/Male Illegal
Penal Code 1994¹²⁰

Female/Female Illegal

Homosexuality between men is prohibited according to article 264 of the Penal Code. It is defined as anal intercourse. The punishment for unmarried men is 100 blows of the whip or up to one year imprisonment, while the punishment for married men is stoning to death.

Homosexuality between women, which is defined as sexual stimulation through friction, is prohibited according to article 268 of the Penal Code. The punishment is up to three years imprisonment for consensual acts and up to seven years imprisonment for the culprit if the act is by force.

Zambia

Male/Male Illegal

Female/Female Legal

Volume 7 1995 Edition (Revised)¹²¹

THE PENAL CODE ACT

CHAPTER 87 OF THE LAWS OF ZAMBIA

155. “Any person who-

(a) has carnal knowledge of any person against the order of nature; or

(b) has carnal knowledge of an animal; or

(c) permits a male person to have carnal knowledge of him or her against the order of nature; is guilty of a felony and is liable to imprisonment for fourteen years.

(As amended by No. 26 of 1933)Unnatural offences”

156. “Any person who attempts to commit any of the offences specified in the last preceding section is guilty of a felony and is liable to imprisonment for seven years.

(As amended by No. 26 of 1933)Attempt to commit unnatural offences”

158. “Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, is guilty of a felony and is liable to imprisonment for five years.

(As amended by No. 26 of 1933) Indecent practices between males”

Zimbabwe

Male/Male Illegal

Female/Female Legal

CRIMINAL LAW (CODIFICATION AND REFORM) ACT [CHAPTER 9:23] Act 23/2004¹²² (Effective July 8, 2006)

PART III

SEXUAL CRIMES AND CRIMES AGAINST MORALITY

Division B: Sexual Crimes

73 Sodomy

“(1) Any male person who, with the consent of another male person, knowingly performs with that other person anal sexual intercourse, or any act involving physical contact other than anal sexual intercourse that would be regarded by a reasonable person to be an indecent act, shall be guilty of sodomy and liable to a fine up to or exceeding level fourteen or imprisonment for a period not exceeding one year or both.

(2) Subject to subsection (3), both parties to the performance of an act referred to in subsection (1) may be charged with and convicted of sodomy.

(3) For the avoidance of doubt it is declared that the competent charge against a male person who performs anal sexual intercourse with or commits an indecent act upon a young male person—

(a) who is below the age of twelve years, shall be aggravated indecent assault or indecent assault, as the case may be; or

(b) who is of or above the age of twelve years but below the age of sixteen years and without the consent of such young male person, shall be aggravated indecent assault or indecent assault, as the case may be; or

(c) who is of or above the age of twelve years but below the age of sixteen years and with the consent of such young male person, shall be performing an indecent act with a young person.”

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Notes

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