

CRIMINALISATION OF HOMOSEXUALITY: FROM PRISON TO THE DEATH PENALTY

**ABOLITION
NOW**

- 61 countries have jurisdictions which criminalise private, same-sex, consensual sexual activity. All of them criminalise men and 42 criminalise women.
- 11 jurisdictions can or do impose the death penalty for same-sex intimacy.

MAURITANIA

Despite the moratorium on executions observed since 1987, Article 308 of the Criminal Code stipulates that "any adult Muslim man who has committed an indecent act or an act against nature with an individual of the same sex will be punished to death by public stoning". For women, the sentence is 2 years' imprisonment and a fine.

SAUDI ARABIA

Under Sharia law, sexual relations between men are deemed an offence but punishment is not clearly specified. Although the sentence to be imposed may however be subject to debate between courts, given that sexual relations outside marriage* are in any event illegal, punishment for a married man is generally stoning (and 100 lashes, as well as one year of exile for men who are single).

QATAR

The 2004 Criminal Code no longer makes sodomy or other same-sex relations between consenting persons crimes per se. Notwithstanding, courts may also refer directly to Sharia law and as such sentence Muslim men to death for homosexual relations.

IRAN

The 1991 Criminal Code makes sodomy a crime punishable by death for responsible, consenting adult men. The punishment for female homosexuality is one hundred lashes for the first 3 offences recorded, then the death penalty is applied for a 4th offence.

AFGHANISTAN

Although the Afghan Criminal Code does not contain any explicit provisions prohibiting consensual sexual relations between people of the same sex, Article 130 of the Constitution enables Sharia law to be invoked. As such, any sexual relation outside marriage* may be punishable by death.

PAKISTAN

Homosexuality, made illegal in the 1860 Criminal Code, is punishable by death. In this country, where Sharia law is applied, homosexuality, bisexuality and transidentity are profoundly taboo.

BRUNEI

New legislation implementing Sharia law in this country was scheduled for May 2014, whereby homosexuality was to become a crime punishable by death whereas until this date a maximum sentence of 10 years' imprisonment was prescribed. In May 2019, the Sultan of Brunei announced a moratorium on the death penalty for homosexuality and adultery.

YEMEN

Pursuant to Article 264 of the 1994 Criminal Code, sodomy is punishable by death by stoning for married men (and 100 lashes or one year's imprisonment for unmarried men). Article 268 punishes sexual relations between consenting women with up to 3 years' imprisonment.

UNITED ARAB EMIRATES

Under Sharia law, any sexual act outside marriage* is punishable by death. The States of Abu Dhabi and Dubai have federal laws which stipulate prison sentences for sodomy (respectively 14 and 10 years' imprisonment).

SOMALIA

Sharia law is applied in Southern Somalia, in Emirates controlled by al-Shabaab, as well as in Somaliland. It punishes same-sex relations to death or flogging.

NIGERIA (12 NORTHERN STATES)

Under Sharia law, 12 States in the north of the country impose the death penalty for male homosexuality. Women incur prison sentences or flogging. Since January 2014, same-sex marriage, organizations linked to LGBTI+ persons and intimate relationships in public are criminalized by law. In States where homosexuality is not as severely repressed, punishments currently range from 10 to 14 years' imprisonment.

In July 2020, Sudan abolished the death penalty for homosexual people (which applied until then to repeat «offenders»). Homosexuality, however, is still criminalised there today.

* Here, marriage refers exclusively to heterosexual marriage, i.e. between two persons of different sex.

** A new Sharia-based Criminal Code came into effect in Brunei on 3 April 2019. On 5 May, the Sultan announced that he would continue to maintain the moratorium on the death penalty in effect since 1957.

SEXUALITY IS PUNISHABLE BY DEATH / IN 11 COUNTRIES, HOMO

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