

Laws on Homosexuality in African Nations

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Law Library of Congress*

The following chart summarizes the treatment of homosexuality in the criminal laws of forty-nine African nations. The provisions on criminal penalties only include penalties for acts involving adults, as all nations penalize sexual acts, whether homosexual or heterosexual, involving children. Of the jurisdictions surveyed, only South Africa affirmatively permits same-sex marriage.

Country	Criminal Provisions	Laws Against Advocacy	Recognition of Same-sex Marriage
Algeria	Any person guilty of a homosexual act is punished with a term of imprisonment of between two months and two years and a fine of between 500 and 2000 Algerian Dinars (about US\$6.40–\$25.60). ¹	None found.	Not recognized.
Angola	The Angolan Penal Code is silent with regard to the criminalization of homosexuality. However, article 71(4) determines that security measures are applicable to people who habitually practice “acts against nature.” Article 70 of the Penal Code lists the security measures, which include confinement in an insane asylum; confinement in a workhouse or agricultural colony; probation; pledge of good conduct; and disqualification from the practice of a profession. ²	None found.	Same-sex marriage is not recognized in Angola. The Angolan Family Code defines marriage as a voluntary union between a man and a woman, formalized under the law, for the purpose of establishing full communion of life. ⁵

Criminal Laws on Homosexuality in African Nations

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	<p>According to the Angolan Ministry of Justice, a proposal for a new Penal Code will be sent to the Council of Ministers in March 2014³ that would no longer have these provisions.⁴</p>		
Benin	<p>Article 88 of the 1996 Penal Code punishes homosexual acts with one to three years of imprisonment and a fine of XOF 100,000–500,000 (about US\$210–\$1,050). However, it appears that no one has ever been convicted under this law.⁶</p>	None found.	Not recognized.
Botswana	<p>Some homosexual acts are illegal. The Botswana Penal Code provides that “[a]ny person who ... has carnal knowledge of any person against the order of nature ... or permits any other person to have carnal knowledge of him or her against the order of nature, is guilty of an offence and is liable to imprisonment for a term not exceeding seven years.”⁷ Attempt is also an offense, and punishable on conviction with up to five years in prison.⁸ However, in order for carnal knowledge (sexual intercourse) to be against the “order of nature,” there must be anal penetration by a sex organ.⁹ Therefore, while sodomy of any form, whether it involves a heterosexual or homosexual couple is an offense under this</p>	None found.	No law permitting same-sex marriage found.

Criminal Laws on Homosexuality in African Nations

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	provision, a homosexual sexual act that does not involve anal penetration with a sex organ may be legal. ¹⁰		
Burkina Faso	No laws against homosexual relations. ¹¹	None found.	Not recognized.
Burundi	A 2009 revision of the Penal Code made homosexual relations punishable by three months to two years of imprisonment and/or by a fine of BIF50,000–100,000 (about US\$33–\$66). ¹²	None found.	The Burundian Constitution prohibits same-sex marriage. ¹³
Cameroon	Same-sex sexual intercourse is punishable by six months to five years of imprisonment, and a fine of XAF20,000–200,000 (about US\$42–\$419). ¹⁴	None found.	Not recognized.
Cape Verde	The Cape Verdean Penal Code does not criminalize homosexual acts. ¹⁵	None found.	Same-sex marriage is not recognized. According to the Cape Verdean Civil Code, marriage is defined as the voluntary union between two persons of different sexes that intend to constitute a family by means of a full common life. ¹⁶
Central African Republic	“Public expression of love” between persons of the same sex is punishable by six months to two years of imprisonment, or a fine of XOF 150,000–600,000. However, this law does not seem to be enforced by the police. ¹⁷	None found.	Not recognized.

Criminal Laws on Homosexuality in African Nations

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Chad	None found.	None found.	Not recognized.
Comoros	Homosexual acts are punishable by one to two years of imprisonment and a fine of KMF 50,000–1,000,000 (about US\$140–\$2,792). ¹⁸	None found.	Not recognized.
Congo (Democratic Republic of the)	Homosexual acts are not explicitly illegal, but article 172 of the Penal Code, which prohibits “violations of morality” under penalty of up to five years of imprisonment, could be used against gay and lesbian individuals. ¹⁹	None found.	The Democratic Republic of the Congo’s Constitution prohibits same-sex marriage. ²⁰
Congo (Republic of the)	No information found.	None found.	Not recognized.
Côte d’Ivoire	No laws against homosexual relations. ²¹	None found.	Not recognized.
Djibouti	Homosexual acts appear to be legal, as there does not seem to be any provision of the Penal Code of Djibouti dealing with these issues. ²²	None found.	Not recognized.
Egypt	Homosexuality is punished as a “scandalous act,” with detention for up to one year and/or a fine of up to 300 EGP (about US\$43). ²³	None found.	Not recognized.
Eritrea	Homosexuality is illegal. Eritrean law states that a person who “performs with another person of the same sex an act corresponding to the sexual act, or any indecent act, is punishable with simple imprisonment.” ²⁴ The terms “sexual act” and “indecent act” are not defined. When a person is convicted under this provision, the court has the discretion to	None found.	Not recognized.

Criminal Laws on Homosexuality in African Nations

Country	Criminal Provisions	Laws Against Advocacy	Recognition of Same-sex Marriage
	impose a sentence ranging from ten days to three years of imprisonment. ²⁵		
Ethiopia	Homosexuality is illegal. The country’s law states that “whoever performs with another person of the same sex a homosexual act, or any other indecent act, is punishable with simple imprisonment.” ²⁶ The law does not provide definitions of the terms “homosexual act” and “indecent act.” Although simple imprisonment generally entails a prison sentence ranging from ten days to three years, courts are authorized to impose higher sentences (up to five years of imprisonment) in cases of recidivism. ²⁷	None found.	Not recognized.
Gabon	Homosexual acts appear to be legal, as there does not seem to be any provision of the Gabonese Penal Code dealing with these issues. ²⁸	None found.	Not recognized.
Gambia	Homosexuality is illegal. The country’s Criminal Code states that a “person who has carnal knowledge of any person against the order of nature ... or permits any person to have carnal knowledge of him or her against the order of nature” commits a felony known as unnatural offense, and on conviction is punishable by a fourteen-year prison term. ²⁹ An attempt to commit an unnatural offense is also a felony, on conviction,	None found.	Not recognized.

Criminal Laws on Homosexuality in African Nations

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	<p>punishable by seven years of imprisonment.³⁰ In addition, the Code criminalizes what it calls “indecent practices”: anyone who “commits an act of gross indecency with another” in public or in private or “procures” or “attempts to procure” another to commit such act with him/herself or with another person commits a felony, and on conviction is punishable by a five-year prison term.³¹</p> <p>The Criminal Code provides definitions for certain terms. The term “carnal knowledge of any person against the order of nature” includes:</p> <ul style="list-style-type: none"> a) Carnal knowledge of the person through the anus or mouth of the person; b) Inserting any object or thing into the vulva or anus of the person for the purpose of stimulating sex; and c) Committing any other homosexual act with the person.³² <p>An act of gross indecency includes any homosexual act.³³ However, the term “homosexual act” is not defined.</p>		
Ghana	Ghana criminalizes sodomy. Under this country’s law, a “person who has unnatural carnal knowledge of ... another person of not less than sixteen	None found.	Not recognized.

Criminal Laws on Homosexuality in African Nations

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	<p>years of age with the consent of that other person commits a misdemeanor,”³⁴ an offense punishable on conviction by a maximum three-year prison term.³⁵ “Unnatural carnal knowledge” involves “sexual intercourse with a person in an unnatural manner” and requires “the least degree of penetration.”³⁶</p>		
Guinea	<p>Article 325 of the Penal Code punishes homosexual acts with six months to three years of imprisonment, and a fine of GNF100,000–1,000,000 (about US\$14–\$143).³⁷</p>	None found.	Not recognized.
Guinea Bissau	<p>The Penal Code of Guinea Bissau does not criminalize homosexual acts.³⁸</p>	None found.	<p>In Guinea Bissau, the Civil Code defines “marriage” as a contract between two persons of different sex who wish to start a family through full communion of life.³⁹ Therefore, same-sex marriage is not recognized.</p>
Kenya	<p>Kenya’s Penal Code criminalizes sodomy. Under this law, a “person who ... has carnal knowledge of any person against the order of nature ... or permits a male person to have carnal knowledge of him or her against the order of nature” commits a felony, punishable on conviction by a fourteen-year prison term.⁴⁰ An attempt to</p>	None found.	Not recognized.

Criminal Laws on Homosexuality in African Nations

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	commit an unnatural offense, also a crime, is , punishable on conviction by a seven-year prison term. ⁴¹		
Lesotho	Sodomy appears to be a common-law crime in Lesotho. ⁴² Under the country’s Criminal Procedure and Evidence Act, sodomy is one of the offenses for which a person may be arrested without a warrant. ⁴³	None found.	No information located.
Liberia	Liberia criminalizes homosexual acts. It makes engaging in voluntary “deviate sexual intercourse” by any person a first-degree misdemeanor, an offense punishable by up to one year in prison. ⁴⁴ The term “deviate sexual intercourse” includes “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.” ⁴⁵ A sexual contact involves “touching of the sexual or other intimate parts of a person for the purpose of arousing or gratifying a sexual desire.” ⁴⁶	None found.	Not recognized.
Libya	Homosexuality is punished under the Penal Code provision on extramarital sexual relationships. When consensual, such relationships are punished with	None found.	Not recognized.

Criminal Laws on Homosexuality in African Nations

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	imprisonment for up to five years. ⁴⁷		
Madagascar	No laws against homosexual relations. ⁴⁸	None found.	Not recognized.
Malawi	<p>Malawi criminalizes homosexuality. Anyone who “has carnal knowledge of any person against the order of nature ... or permits a male person to have carnal knowledge of him or her against the order of nature” commits an “unnatural offence,” a felony, on conviction, punishable by a fourteen-year prison term.⁴⁹ Attempting to commit an “unnatural offence,” also a felony, is punishable on conviction by a seven- year prison term.⁵⁰ In addition, Malawi criminalizes what it calls “indecent practices.” Anyone who “commits an act of gross indecency with another” in public or in private or “procures” or “attempts to procure” another to commit such act with him/herself or with another person commits a felony and is, on conviction, punishable by a five-year prison term.⁵¹ The term “gross indecency” is not defined.</p>	None found.	Not recognized.
Mali	No laws against homosexual relations. ⁵²	None found.	Not recognized.
Mauritania	<p>Article 308 of the Mauritanian Penal Code punishes homosexual acts by Muslim men with death by stoning. Homosexual acts by two women are punished with three months to two</p>	None found.	Not recognized.

Criminal Laws on Homosexuality in African Nations

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	years of imprisonment and a fine of MRO5,000–60,000 about (US\$17–\$207). ⁵³		
Mauritius	The Criminal Code of Mauritius criminalizes sodomy, stating that “[a]ny person who is guilty of the crime of sodomy ... shall be liable to penal servitude not exceeding 5 years.” ⁵⁴	None found.	No information available.
Morocco	Under the Penal Code, 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 [about US\$14.63–\$121.94], unless the facts of the case constitute aggravating circumstances.”	None found.	Not recognized.
Mozambique	The Mozambican Penal Code is silent in regard to criminalization of homosexuality. However, article 71(4) determines that security measures are applicable to people who habitually practice “acts against nature.” Article 70 of the Penal Code lists the security measures, which include confinement in an insane asylum, confinement in a workhouse or agricultural colony, probation, pledge of good conduct, and/or disqualification from the practice of a profession. ⁵⁵	None found.	Same-sex marriage is not recognized in Mozambique. Pursuant to the Mozambican Family Law, “marriage” is defined as the voluntary and singular union between a man and a woman for the purpose of constituting a family by means of a full communion of life. ⁵⁷ Thus, same-sex marriage is not recognized.

Criminal Laws on Homosexuality in African Nations

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	<p>According to the Mozambican government, on December 18, 2013, the Parliament approved by consensus a general draft revision of the Penal Code. It was not possible to determine, however, whether the mentioned provisions were altered.⁵⁶</p>		
Namibia	<p>It appears that Namibia criminalizes some homosexual acts. Although no legislation or other primary source criminalizing homosexuality or homosexual acts was located, some secondary sources indicate that sodomy is a common-law crime in the country.⁵⁸ No information on penalties imposed for the commission of this crime was located.</p>	None found.	No information available.
Niger	<p>Homosexual acts appear to be legal, as there does not seem to be any provision of the Penal Code of Niger dealing with these issues.⁵⁹</p>	None found.	Not recognized.
Nigeria	<p>Nigeria’s federal law criminalizes homosexuality. Anyone who “has carnal knowledge of any person against the order of nature ... or permits a male person to have carnal knowledge of him or her against the order of nature” commits an “unnatural offence,” a felony punishable on conviction with a fourteen-year prison term.⁶⁰ An attempt to commit an “unnatural offence,” also</p>	<p>Nigeria prohibits any form of gay rights advocacy. The Same Sex Marriage (Prohibition) Act states that the “registration of gay clubs, societies and organizations, their sustenance, processions and meetings is prohibited.”⁶⁶ Violation of this provision is punishable on conviction by a ten-year prison</p>	<p>Same-sex marriage and civil unions are prohibited.⁶⁸ The violation of this ban is an offense punishable on conviction by a fourteen-year term of imprisonment.⁶⁹ In addition to the parties to the same-sex marriage or civil union, anyone who “administers, witnesses, abets</p>

Criminal Laws on Homosexuality in African Nations

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	<p>a felony, is punishable on conviction by a seven-year prison term.⁶¹ In addition, Nigeria bans male persons from engaging in what it calls “gross indecency”: procuring or attempting to procure another male for the commission of gross indecency in public or private.⁶² A violation of this ban is a felony punishable on conviction by a three-year prison term.⁶³ Furthermore, Nigeria prohibits a “public show of same sex amorous relationship directly or indirectly,” the violation of which is, on conviction, punishable by ten years of imprisonment.⁶⁴ There are some states that have adopted Sharia law and these states reportedly have imposed the death penalty for homosexual behavior.⁶⁵</p>	<p>term.⁶⁷</p>	<p>or aides the solemnization of same sex marriage or civil union” commits a crime punishable on conviction by a ten-year prison term.⁷⁰</p>
Rwanda	<p>No laws against homosexual relations.⁷¹</p>	<p>None found.</p>	<p>Not recognized.</p>
São Tomé e Príncipe	<p>The new Penal Code enacted in 2012 does not criminalize homosexuality.⁷²</p>	<p>None found.</p>	<p>It was not possible to determine whether same-sex marriage is recognized.</p>
Senegal	<p>Homosexual acts are punished with one to two years of imprisonment and a fine of XOF100,000–1,500,000 (about US\$209–\$3,142).⁷³</p>	<p>None found.</p>	<p>Not recognized.</p>
Seychelles	<p>Seychelles appears to prohibit certain homosexual acts. Its Penal Code bans sodomy, stating that anyone who “has carnal knowledge of any person against</p>	<p>No information available.</p>	<p>No information available.</p>

Criminal Laws on Homosexuality in African Nations

Country	Criminal Provisions	Laws Against Advocacy	Recognition of Same-sex Marriage
	<p>the order of nature ... or permits a male person to have carnal knowledge of him or her against the order of nature” commits a felony punishable on conviction by a fourteen-year prison term.⁷⁴</p>		
<p>Sierra Leone</p>	<p>It appears that Sierra Leone bans certain homosexual acts. Although all sources consulted for this report indicate that sodomy is currently illegal in Sierra Leone, they appear to diverge on the question of the source for this law. Some indicate that the prohibition is based on an 1861 English law banning buggery (sodomy and bestiality), introduced in Sierra Leone during the colonial era, which is still in force in the country.⁷⁵ This law states that “[w]hosoever shall be convicted of the abominable Crime of Buggery, committed with Mankind or any Animal, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or any Term not less than Ten Years.”⁷⁶ Another source indicates that sodomy is a felony under common law in Sierra Leone.⁷⁷</p>	<p>None found.</p>	<p>No information available.</p>

Criminal Laws on Homosexuality in African Nations

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Somalia	Somalia bans homosexuality. Its Penal Code states that anyone “who has carnal intercourse 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 the act committed is an act of lust different from carnal intercourse, the punishment shall be reduced by one third.” ⁷⁸ In addition, a person convicted for homosexuality may be subject to what is known as a “security measure,” which is a measure imposed on persons deemed “a danger to society,” in the form of police surveillance or deportation (if the person is not a citizen). ⁷⁹	None found.	Not recognized.
South Africa	South Africa abrogated laws criminalizing homosexual conduct, including the common-law crime of sodomy, and legalized same-sex sexual activity in 1998. ⁸⁰	None.	South Africa recognizes gay marriage. ⁸¹

Criminal Laws on Homosexuality in African Nations

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South Sudan	<p>South Sudan bans certain homosexual acts. Its Penal Code prohibits sodomy, stating that a person who has “carnal intercourse against the order of nature with any person or who allows any person to have such intercourse with him or her” commits an “unnatural offence,” punishable on conviction by up to ten years in prison and a fine.⁸² The crime is complete at penetration.⁸³</p>	None found.	No information available.
Sudan	<p>The Penal Code of 1991 states as follows:</p> <p>Section 148 Sodomy.</p> <p>(1) Any man who inserts his penis or its equivalent into a woman’s or a man’s anus or permits another man to insert his penis or its equivalent in his anus is said to have committed Sodomy.</p> <p>(2) (a) Whoever commits Sodomy shall be punished with flogging by one hundred lashes and he shall also be liable to five years’ imprisonment.</p> <p>(b) If the offender is convicted for the second time he shall be punished with flogging by one hundred lashes and imprisonment</p>	No information available.	Not recognized.

Criminal Laws on Homosexuality in African Nations

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	<p>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.⁸⁴</p> <p>The Penal Code also provides that anyone who carries out acts considered “indecent or inappropriate to the public morals will be punished by flogging not exceeding 40 times or a fine or both punishments.”⁸⁵</p>		
Swaziland	<p>No primary source on the legal status of homosexuality or homosexual conduct was located. Secondary sources indicate that sodomy is a common-law crime in Swaziland.⁸⁶ No information regarding the penalties imposed for this offense was located.</p>	No information available.	No information available.
Tanzania	<p>Mainland Tanzania criminalizes certain homosexual acts. The country’s Penal Code bans sodomy and imposes a harsh penalty. Under this law, anyone who</p>	No information available.	No information available.

Criminal Laws on Homosexuality in African Nations

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	<p>“has carnal knowledge of any person against the order of nature ... or permits a male person to have carnal knowledge of him or her against the order of nature” commits a crime punishable on conviction by thirty years to life imprisonment.⁸⁷ An attempt to commit sodomy is also criminalized and is punishable on conviction by a minimum of twenty years of imprisonment.⁸⁸ In addition, the law bans “indecent practices between males”: any male who commits any act of gross indecency with another male, procures another male to commit such act or attempts to procure the commission of such act commits a crime punishable on conviction by a five-year prison term.⁸⁹ “Gross indecency” includes a “sexual act that is more than ordinary but falls short of actual intercourse and may include masturbation and indecent physical contact or indecent behaviour without any physical contact.”⁹⁰</p>		
Togo	<p>Homosexual acts are punished by one to three years of imprisonment and a fine of TZS100,000–500,000 (about US\$210–\$1,050).⁹¹</p>	<p>No information available.</p>	<p>Not recognized.</p>
Tunisia	<p>Sodomy, if not covered by any of the other articles, is punished with imprisonment for three years.⁹²</p>	<p>No information available.</p>	<p>Not recognized.</p>

Criminal Laws on Homosexuality in African Nations

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	<p>In addition, anyone who intentionally and publicly promotes “indecenty” is punishable by imprisonment for six month and subject to a fine of 48 dinars (about US\$30).⁹³</p>		
<p>Uganda</p>	<p>Uganda’s Penal Code bans sodomy, stating that anyone who “has carnal knowledge of any person against the order of nature ... or permits a male person to have carnal knowledge of him or her against the order of nature” commits a crime punishable on conviction by life in prison.⁹⁴ An attempt to commit such crimes, also prohibited, is punishable on conviction by a seven-year prison term.⁹⁵ In addition, the Penal Code prohibits what it calls “indecent practices” (a term for which no definition is provided) by any person.⁹⁶</p> <p>A law adopted by the country’s Parliament on December 20, 2013, and signed by President Yoweri Museveni on February 24, 2014, criminalizes homosexuality and imposes harsh penalties for violations of its provisions.⁹⁷ Under this law, an offense of homosexuality (which includes sodomy, homosexual oral sex, or any</p>	<p>The recently adopted law uses broad language to ban what it calls the “promotion of homosexuality,” including the use of “electronic devices which include internet, films, [or] mobile phones for the purpose of homosexuality or promoting homosexuality;” engaging in such activity is punishable by five to seven years in prison and/or a fine.¹⁰¹ If the perpetrator of this offense were a juridical person, the operating license would be lost and the person in charge would be subject, on conviction, to a seven-year prison term.¹⁰²</p>	<p>Same-sex marriage is a crime punishable on conviction by life imprisonment.¹⁰³</p>

Criminal Laws on Homosexuality in African Nations

Country	Criminal Provisions	Laws Against Advocacy	Recognition of Same-sex Marriage
	<p>form of same-sex sexual activity) is punishable on conviction by a fourteen year prison term.⁹⁸ An attempt to commit such an offense is punishable on conviction by a seven-year prison term.⁹⁹ Aggravated homosexuality, which includes recidivism, is punishable by up to life in prison.¹⁰⁰</p>		
Zambia	<p>Zambia’s Penal Code bans sodomy, stating that anyone who “has carnal knowledge of any person against the order of nature...or permits a male person to have carnal knowledge of him or her against the order of nature” commits a crime, on conviction, punishable by fourteen years to life in prison.¹⁰⁴ Attempt, also a crime, is punishable on conviction by a seven- to fourteen-year prison term.¹⁰⁵ In addition, the Penal Code prohibits what it calls “indecent practices,” a term for which no definition is provided, by any person, including children under the age of sixteen.¹⁰⁶ When the perpetrator of the offense is an adult, he/she is punishable on conviction by seven to fourteen years of imprisonment.¹⁰⁷ However, if the perpetrator of this crime is a child, courts are authorized to impose only community service or counseling.¹⁰⁸</p>	No information available.	No information available.

Criminal Laws on Homosexuality in African Nations

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Zimbabwe	Zimbabwe prohibits male homosexual conduct. A male person who, with consent, performs “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” commits the crime of sodomy, on conviction, punishable up to one year of imprisonment and/or a fine. ¹⁰⁹	No information available.	No information available.

¹ Penal Code (Ordinance 66-156) art. 338 (June 8, 1966), <http://www.joradp.dz/TRV/APenal.pdf> (in Arabic).

² CÓDIGO PENAL, ANOTAÇÕES DE: DR. ORLANDO RODRIGUES & DR. GRANDÃO RAMOS (Universidade Agostinho Neto, Faculdade de Direito, 1992).

³ *Projeto Final do Código Penal Vai ao Conselho de Ministros*, MINISTÉRIO DA JUSTIÇA (Feb. 19, 2014), <http://www.minjusdh.gov.ao/VerNoticia.aspx?id=21280>.

⁴ *Anteprojecto de Código Penal*, MINISTÉRIO DA JUSTIÇA (June 23, 2011), <http://www.minjusdh.gov.ao/VerLegislacao.aspx?id=443>.

⁵ CÓDIGO DA FAMÍLIA, Lei No. 1/88, de 20 de Fevereiro, art. 20, <http://www.jafbase.fr/docAfrique/Angola/C%20D3DIGO%20DA%20FAM%CDLIA.pdf?#zoom=81&statusbar=0&navpanes=0&messages=0>.

⁶ *See* IMMIGRATION ET COMMUNAUTÉS CULTURELLES QUÉBEC [QUEBEC MINISTRY OF IMMIGRATION AND CULTURAL COMMUNITIES], RÉALITÉS JURIDIQUES ET SOCIALES DE L’HOMOSEXUALITÉ ET DE LA TRANSEXUALITÉ DANS LES PRINCIPAUX PAYS D’ORIGINE DES NOUVEAUX ARRIVANTS AU QUÉBEC [LEGAL AND SOCIAL REALITIES OF HOMOSEXUALITY AND TRANSEXUALITY IN THE PRINCIPAL COUNTRIES OF ORIGIN OF NEW IMMIGRANTS IN QUEBEC] 14 (2d ed., Sept. 2011), http://www.quebecinterculturel.gouv.qc.ca/publications/fr/divers/GUI_InfoHomosexualiteTranssexualite_FIN.pdf.

⁷ Penal Code of 1964, §164, II LAWS OF BOTSWANA, Cap. 08:01 (rev. ed. 2012).

⁸ *Id.* § 165.

⁹ *Gaolete v. State*, [1991] B.L.R 325; DANIEL DAVID NTANDA NSEREKO, CRIMINAL LAW IN BOTSWANA 237–38 (Wolters Kluwer, 2011).

¹⁰ NTANDA NSEREKO, *supra* note 9, at 238.

¹¹ *See* IMMIGRATION ET COMMUNAUTÉS CULTURELLES QUÉBEC, *supra* note 6, at 18.

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- ¹² Loi No.1/05 du 22 avril 2009 portant révision du code pénal [Law No. 1/05 of April 22, 2009, Amending the Penal Code], art. 567, http://justice.gov.bi/IMG/pdf/Code_Penal_Burundi_2009_-_FR.pdf.
- ¹³ CONSTITUTION DE LA RÉPUBLIQUE DU BURUNDI [CONSTITUTION OF THE REPUBLIC OF BURUNDI] art. 29, <http://www.assemblee.bi/Constitution-de-la-Republique-du>.
- ¹⁴ PENAL CODE OF THE REPUBLIC OF CAMEROON (2011), art. 347 (bis).
- ¹⁵ CÓDIGO PENAL, Decreto Legislativo No. 4/2003, de 18 de Novembro, <http://www.mj.gov.cv/index.php/legislacao?start=20>.
- ¹⁶ CÓDIGO CIVIL, Decreto-Lei No. 47.344 de 25 de Novembro de 1966, alterado pelo Decreto-Legislativo No. 12-C/97 de 30 de Junho, art. 1.554, http://www.law.yale.edu/rcw/rcw/jurisdictions/afw/capeverde/cabo_verde_codigo_civil.htm.
- ¹⁷ U.S. DEPARTMENT OF STATE, 2010 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: CENTRAL AFRICAN REPUBLIC 46 (Apr. 8, 2011), <http://www.state.gov/j/drl/rls/hrrpt/2010/af/154337.htm>.
- ¹⁸ CODE PÉNAL DE LA RÉPUBLIQUE FÉDÉRALE ISLAMIQUE DES COMORES [PENAL CODE OF THE FEDERAL ISLAMIC REPUBLIC OF THE COMORES] art. 318 (July 1996).
- ¹⁹ IMMIGRATION ET COMMUNAUTÉS CULTURELLES QUÉBEC, *supra* note 6, at 24; Loi No. 06/018 du 20 juillet 2006 modifiant et complétant le Décret du 30 janvier 1940 portant Code pénal congolais [Law No. 06/018 of July 20, 2006, modifying and completing the Decree of January 30, 1940, establishing the Congolese Penal Code] art. 3, JOURNAL OFFICIEL, Aug. 1, 2006, [http://www.ilo.org/dyn/natlex/docs/SERIAL/79516/85601/F683101199/code%20penal%20\(modif\).pdf](http://www.ilo.org/dyn/natlex/docs/SERIAL/79516/85601/F683101199/code%20penal%20(modif).pdf).
- ²⁰ CONSTITUTION DE LA RÉPUBLIQUE DÉMOCRATIQUE DU CONGO [CONSTITUTION OF THE DEMOCRATIC REPUBLIC OF CONGO] art. 40, Feb. 18, 2006, *available at* http://www.wipo.int/wipolex/en/text.jsp?file_id=193675.
- ²¹ *See* IMMIGRATION ET COMMUNAUTÉS CULTURELLES QUÉBEC, *supra* note 6, at 26.
- ²² CODE PÉNAL DE LA RÉPUBLIQUE DE DJIBOUTI [PENAL CODE OF THE REPUBLIC OF DJIBOUTI] (1995).
- ²³ PENAL CODE (Law 58-1937), *amended by* Law 95-2003, art. 278, *available at* <http://www.mohamoon-montada.com/Default.aspx?action=ArabicLaw&ID=20> (in Arabic).
- ²⁴ TRANSITIONAL PENAL CODE OF ERITREA art. 600. The Transitional Penal Code consists of two pieces of legislation: The Penal Code Proclamation of the Empire of Ethiopia No. 158 of 1957, GAZETTE EXTRA ORDINARY (July 23, 1957), available on the United Nations High Commissioner for Refugees (UNHCR) portal, REF WORLD, at <http://www.refworld.org/pdfid/49216a0a2.pdf>; and the Transitional Penal Law of Eritrea Proclamation No. 4, 1(1) GAZETTE OF ERITREAN LAWS (Sept. 15, 1991), available only in Tigriña (one of Eritrea's local languages).
- ²⁵ *Id.* art. 105.
- ²⁶ CRIMINAL CODE OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA 2004, art. 629 (May 9, 2005), *available at*, <http://www.refworld.org/pdfid/49216a0a2.pdf>.
- ²⁷ *Id.* art. 106.
- ²⁸ CODE PÉNAL DE LA RÉPUBLIQUE GABONAISE [PENAL CODE OF THE GABONESE REPUBLIC] (1994).

²⁹ CRIMINAL CODE OF 1934, § 144, 3 LAWS OF GAMBIA, Cap. 8:01 (rev. ed. 2009).

³⁰ *Id.* § 145.

³¹ *Id.* § 147.

³² *Id.* § 144.

³³ *Id.* § 147.

³⁴ Criminal Offences Act 29 of 1960 § 104, 3 LAWS OF GHANA (rev. ed. 2004), available on the Ghana Legal website, at <http://ghanalegal.com/?id=3&law=19&t=ghana-laws>.

³⁵ Criminal and Other Offences (Procedure) Act 30 of 1960, § 296, 3 LAWS OF GHANA (rev. ed. 2004), available on the Verification Research, Training and Information Centre (VERTIC) website, at http://www.vertic.org/media/National%20Legislation/Ghana/GH_Criminal_Procedure_Code.pdf.

³⁶ Criminal Offences Act 29 OF 1960 §§ 99 & 104.

³⁷ Loi No. 98/036 du 31 décembre 1998 portant code pénal [Law No. 98/036 of December 31, 1998, Establishing the Penal Code] art. 325, Dec. 31, 1998, available at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=44a3eb9a4>.

³⁸ Decreto-Lei No. 4/93, de 13 de Outubro de 1993, in FACULDADE DE DIREITO DE BISSAU, CENTRO DE ESTUDOS E APOIO ÀS REFORMAS LEGISLATIVAS, GUINÉ-BISSAU COLECTÂNEA DE LEGISLAÇÃO FUNDAMENTAL DE DIREITO PENAL (João Pedro C. Alves de Campos ed., 2007), http://www.fdbissau.org/PDF_files/Dir%20Penal.pdf.

³⁹ CÓDIGO CIVIL, Decreto-Lei n° 47.344, de 25 de Novembro de 1966, art. 1.577, in FACULDADE DE DIREITO DE BISSAU, CENTRO DE ESTUDOS E APOIO ÀS REFORMAS LEGISLATIVAS, GUINÉ-BISSAU CÓDIGO CIVILE LEGISLAÇÃO COMPLEMENTAR (2006), http://www.fdbissau.org/PDF_files/cod%5B1%5D-leg-ultimaversao.pdf.

⁴⁰ Penal Code of 1930, § 162, 15 LAWS OF KENYA, Cap. 63 (rev. ed. 2012), available on the Kenya Law website, at <http://www.kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=CAP.63>.

⁴¹ *Id.* § 163.

⁴² See Motebo Ntabe, Human Rights Violations in Lesotho 3 (undated), excerpts available on the United Nations High Commissioner For Human Rights website, at http://lib.ohchr.org/HRBodies/UPR/Documents/Session8/LS/MSG_UPR_LSO_S08_2010_MatrixSupportGroup.pdf; see also *LGBT Situation in Lesotho*, COMMONWEALTH HUMAN RIGHTS INITIATIVE (June 29, 2011), <http://chriafrica.blogspot.com/2011/06/lgbt-situation-in-lesotho.html>.

⁴³ Criminal Procedure and Evidence Act No. 67 of 1939, First sched., pt. II (Jan. 1, 1939), available on the Swaziland Anti-Corruption Commission website, at <http://www.acc.gov.sz/legislation/Criminal%20procedure%20and%20evidence%20act.pdf>.

⁴⁴ Penal Law of 1976, §§ 14.74 & 50.7, IV LIBERIAN CODES REVISED tit. 26 (rev. ed. 1998), available on the Liberian Legal Information Institute (LIBERLII) website, at <http://www.liberlii.org/lr/legis/codes/plr26colr367/>.

⁴⁵ *Id.* § 14.79.

⁴⁶ *Id.*

- ⁴⁷ PENAL CODE OF 1953 (General Crimes), art. 407, <http://www.aladel.gov.ly/main/modules/sections/item.php?itemid=68> (in Arabic).
- ⁴⁸ See IMMIGRATION ET COMMUNAUTÉS CULTURELLES QUÉBEC, *supra* note 6, at 42.
- ⁴⁹ PENAL CODE OF 1930, § 153, II LAWS OF MALAWI, Cap. 7:01 (rev. ed. 2010); Penal Code Amendment Act, 2009, § 85, (1C) MALAWI GAZETTE SUPPLEMENT (Jan. 28, 2011).
- ⁵⁰ PENAL CODE § 154; Penal Code Amendment Act § 86.
- ⁵¹ PENAL CODE § 156; Penal Code Amendment Act §§ 74 & 89.
- ⁵² See IMMIGRATION ET COMMUNAUTÉS CULTURELLES QUÉBEC, *supra* note 6, at 43.
- ⁵³ Ordonnance 83-162 du 9 juillet 1983 portant institution d'un Code Pénal [Ordonance 83-162 of July 9, 1983, Establishing a Penal Code] art. 308, July 9, 1983, available at <http://www.droit-afrique.com/images/textes/Mauritanie/Mauritanie%20-%20Code%20penal.pdf>.
- ⁵⁴ CRIMINAL CODE OF 1838, § 250, 2 REVISED LAWS OF MAURITUS, Cap. 195 (rev. ed. 2007).
- ⁵⁵ CÓDIGO PENAL (Aug. 31, 2006), http://www.portaldogoverno.gov.mz/Legisla/legisSectores/judiciaria/codigo_penal.pdf.
- ⁵⁶ *Parlamento Aprova Novo Código Penal por Consenso*, PORTAL DO GOVERNO DE MOÇAMBIQUE (Dec. 18, 2013), <http://www.portaldogoverno.gov.mz/noticias/governacao/dezembro-2013/parlamento-aprova-novo-codigo-penal-por-consenso/>.
- ⁵⁷ Lei da Família, Lei No. 10/2004, de 25 de Agosto, art. 7, <http://www.portaldogoverno.gov.mz/Legisla/legisSectores/adminCivil/lei%20da%20familia.pdf>.
- ⁵⁸ See LUCAS PAOLI ITABORAHY & JINGSHU ZHU, INTERNATIONAL LESBIAN GAY BISEXUAL TRANS AND INTERSEX ASSOCIATION (ILGA), STATE SPONSORED HOMOPHOBIA: A WORLD SURVEY OF LAWS: CRIMINALISATION, PROTECTION AND RECOGNITION OF SAME-SEX LOVE 54 (2013), http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2013.pdf; U.N.H.C.R., Report of the Working Group on the Universal Periodic Review: Namibia at 21, U.N. Doc. A/HRC/17/14, 17th Sess. (Mar. 24, 2011), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/122/97/PDF/G1112297.pdf?OpenElement>; Immigration and Refugee Board of Canada, *Namibia: Treatment of Sexual Minorities by Society and Government Authorities; Recourse and Protection Available to Sexual Minorities Who Have Been Subject to Ill-Treatment*, RIR NAM104147.E (Aug. 2, 2012), <http://www.irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=454117&pls=1>.
- ⁵⁹ CODE PÉNAL DE LA RÉPUBLIQUE DU NIGER [PENAL CODE OF THE REPUBLIC OF NIGER] (2005).
- ⁶⁰ Criminal Code Act of 1916, § 214, 4 LAWS OF THE FEDERATION OF NIGERIA, Cap. C38 (rev. ed. 2004).
- ⁶¹ *Id.* § 215.
- ⁶² *Id.* § 217.
- ⁶³ *Id.*
- ⁶⁴ Same Sex Marriage (Prohibition) Act, 2013, §§ 4 & 5 (enacted Jan. 7, 2014), Bill version available at <http://www.refworld.org/type.LEGISLATION...52f4d9cc4.0.html>.
- ⁶⁵ See Map, *Global Gay Punishment and Acceptance*, WASH. POST, Feb. 18, 2014, at A8.

⁶⁶ Same Sex Marriage (Prohibition) Act, 2013, § 4.

⁶⁷ *Id.* § 5.

⁶⁸ *Id.* § 1.

⁶⁹ *Id.* § 5.

⁷⁰ *Id.*

⁷¹ See IMMIGRATION ET COMMUNAUTÉS CULTURELLES QUÉBEC, *supra* note 6, at 56.

⁷² CÓDIGO PENAL, Lei No. 2/2012, available at http://www.rjcplp.org/sections/informacao/anexos/legislacao-sao-tome-e-2539/codigos-e-estatutos-sao2859/codigo-penal-sao-tome-e/preview_html?file=file&file_html=file_html.

⁷³ CODE PÉNAL DU SÉNÉGAL [SENEGAL PENAL CODE] art. 319, <http://www.justice.gouv.sn/droitp/CODE%20PENAL.PDF>.

⁷⁴ PENAL CODE OF 1976, § 151, IX LAWS OF SEYCHELLES, Cap. 158 (rev. ed. 1991). A version of this Code updated through 1996 is available on the Seychelles Legal Information Institute (SEYLII) website, at <http://www.seylli.org/sc/legislation/consolidated-act/158>.

⁷⁵ See ITABORAHY & ZHU, *supra* note 58, at 57; Frederick Cowell, *Colonial Sodomy: Homophobic Threat Within Common Law*, CONSULTANCY AFRICAN INTELLIGENCE (CAI) (July 14, 2010), http://www.consultancyafrica.com/index.php?option=com_content&view=article&id=472:colonial-sodomy-homophobic-threat-within-common-law&catid=91:rights-in-focus&Itemid=296.

⁷⁶ Offences Against the Person Act, 1861, c. 100, § 61 (Eng.), <http://www.legislation.gov.uk/ukpga/Vict/24-25/100/enacted>.

⁷⁷ BANKOLE THOMPSON, *THE CRIMINAL LAW OF SIERRA LEONE* 165 (University Press of America, 1999).

⁷⁸ Penal Code, Legislative Decree No. 5 of 1962, art. 409 (Dec. 16, 1962), unofficial translation available on the Somaliland Law website, at http://www.somalilandlaw.com/Penal_Code_English.pdf.

⁷⁹ *Id.* arts. 163, 172, 178, & 410.

⁸⁰ *National Coalition for Gay and Lesbian Equality and Another v. Minister of Justice and Others* 1999 (1) SA 6, available on the Southern African Legal Information Institute (SAFLII) website, at <http://www.saflii.org/za/cases/ZACC/1998/15.pdf>; see also Heidi Joy Schmid, *Decriminalization of Sodomy Under South Africa's 1996 Constitution: Implications for South African and U.S. Law*, 8 CARDOZO J. INT'L L. 163 (Spring 2000).

⁸¹ Civil Union Act No. 17 of 2006, 497 (29441) GOVERNMENT GAZETTE OF REPUBLIC OF SOUTH AFRICA (Nov. 30, 2006).

⁸² Penal Code Act No. 9 of 2008, § 248, 1(1) ACTS SUPPLEMENT TO THE SOUTHERN SUDAN GAZETTE (Feb. 10, 2009), available on the Max Planck Institute website, at http://www.mpil.de/files/pdf1/penal_code_act_eng_2008.pdf.

⁸³ *Id.*

⁸⁴ PENAL CODE OF 1991, §148, http://www.parliament.gov.sd/ar/activity/view_law.php?law_id=112 (in Arabic).

⁸⁵ *Id.* § 152.

⁸⁶ See AMNESTY INTERNATIONAL, MAKING LOVE A CRIME: CRIMINALIZATION OF SAME-SEX CONDUCT IN SUB-SAHARAN AFRICA 91 (2013), available at <http://www.refworld.org/country...SWZ.456d621e2.51d2a0144.0.html>; U.N.H.C.R., Report of the Working Group on the Universal Periodic Review: Swaziland at 21, U.N. Doc. A/HRC/17/14, 19th Sess. (Dec. 12, 2011), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/172/92/PDF/G1117292.pdf?OpenElement>; ITABORAHY & ZHU, *supra* note 58, at 59.

⁸⁷ PENAL CODE OF 1945, § 154, I LAWS OF TANZANIA, Cap. 16 (rev. ed. 2002).

⁸⁸ *Id.* § 154.

⁸⁹ *Id.* § 157.

⁹⁰ Sexual Offences Special Provisions Act No. 4 of 1998, § 3, available at <http://www.refworld.org/docid/3ae6b5098.html>.

⁹¹ CODE PÉNAL DU TOGO (RÉVISÉ EN AVRIL 2000) [PENAL CODE OF TOGO (REVISED APRIL 2000)] art. 88, available at http://www.wipo.int/wipolex/en/text.jsp?file_id=201335.

⁹² PENAL CODE OF 1913 art. 230, http://www.iort.gov.tn/WD120AWP/WD120Awp.exe/CTX_21548-202-vOqHrEhZAJ/CodesJuridiques/SYNC_108409937 (in Arabic).

⁹³ *Id.*, as amended by Law 73-2004 art. 226.

⁹⁴ PENAL CODE OF 1950, § 145, VI LAWS OF UGANDA, Cap. 120 (rev. ed. 2000).

⁹⁵ *Id.* § 146.

⁹⁶ *Id.* § 148.

⁹⁷ See Grace Matsiko, *Uganda Adopts Draconian Anti-Gay Law*, AGENCE FRANCE PRESSE (Dec. 20, 2013), available at <http://www.google.com/hostednews/afp/article/ALeqM5hGIAcRFCWWsNpSD-g3tPc4yQ2Eqw?docId=6ba408e1-4adc-4408-a6fc-8ce5e0d92ce6>; Elias Biryabarema, *Ugandan President Signs Anti-Gay Bill, Defying the West*, REUTERS (Feb. 24, 2014), <http://www.reuters.com/article/2014/02/24/us-uganda-gaybill-idUSBREA1N05S20140224>.

⁹⁸ Anti Homosexuality Bill No. 18 of 2009, §§ 1 & 2, BILLS SUPPLEMENT TO THE UGANDA GAZETTE No. 47, vol. CII, Sept. 25, 2009, <http://www.parliament.go.ug/new/images/stories/bills/The%20anti%20homosexuality%20bill%202009.pdf>. Note that this is a 2009 version of the legislation and includes language imposing the death penalty for a second conviction on a homosexual offense charge, *id.* § 3, which was reportedly dropped in the version that was ultimately adopted in Parliament. See Matsiko, *supra* note 97.

⁹⁹ Anti Homosexuality Bill, § 4; *Ugandan President Signs Anti-Gay Bill*, AL JAZEERA (Feb. 24, 2014), <http://www.aljazeera.com/news/africa/2014/02/ugandan-president-sign-anti-gay-bill-20142245119120579.html>.

¹⁰⁰ Anti Homosexuality Bill, § 3; *Ugandan President Signs Anti-Gay Bill*, *supra* note 99.

¹⁰¹ *Id.* § 13.

¹⁰² *Id.*

¹⁰³ *Id.* § 12.

¹⁰⁴ PENAL CODE OF 1931, §155, VI LAWS OF THE REPUBLIC OF ZAMBIA, Cap. 87 (rev. ed. 1995); Penal Code (Amendment) Act No. 15 of 2005, § 6, SUPPLEMENT TO THE REPUBLIC OF ZAMBIA GOVERNMENT GAZETTE (Oct. 7, 2005), available on the U.N. Secretary-General's Database on Violence Against Women, at <http://sgdatabase.unwomen.org/uploads/Zambia%20-%20Act%20No.%2015%20of%202005.pdf>.

¹⁰⁵ PENAL CODE § 156; Penal Code (Amendment) Act §§ 2 & 8.

¹⁰⁶ PENAL CODE § 158; Penal Code (Amendment) Act § 8.

¹⁰⁷ PENAL CODE § 158; Penal Code (Amendment) Act § 8.

¹⁰⁸ PENAL CODE § 158; Penal Code (Amendment) Act § 8.

¹⁰⁹ Criminal Law (Codification and Reform) Act 23 of 2004, § 73, GOVERNMENT GAZETTE, June 3, 2005, available on the Network Alliance Project website, at http://www.kubatana.net/docs/legisl/criminal_law_code_050603.pdf, effective July 1, 2006, per Criminal Law (Codification and Reform) Act, Cap. 9:23 (No. 23 of 2004), S.I. 152 of 2006, SUPPLEMENT TO THE ZIMBABWEAN GOVERNMENT GAZETTE (June 16, 2006).