


Criminalisation of Homosexuality

Updated 25 October 2015

 Seychelles		
<p>National Law: <i>Penal Code, Chapter 73, 1 February 1955</i>¹</p> <ul style="list-style-type: none"> - S151: Unnatural Offences² 	<p>Maximum Penalties:</p> <ul style="list-style-type: none"> - 14 years' imprisonment 	<p><u>Treaty Ratification</u></p> <p>AFRICAN CHARTER</p> <p>CAT</p> <p>CEDAW</p> <p>CEDAW OP</p> <p>CRC</p> <p>ICCPR</p> <p>ICCPR OP1</p> <p>ICESCR</p>
The law is applicable only to men.		
Enforcement	<ul style="list-style-type: none"> - 2014: The 2014 US Report on Human Rights Practices in Seychelles suggested that the laws are not currently enforced.³ 	
Statements by Public Figures	<ul style="list-style-type: none"> - 13 August 2014: In August 2014 the Seychelles Judicial College hosted a debate on decriminalisation of homosexuality, moderated by judges and lawyers. Appeal Judge Mathilda Twomey was on the panel of judges and had reportedly stated that Seychelles is a secular state and this meant that it purports to be neutral in matters of religion. Judge Twomey later reportedly told a newspaper: <i>the government of Seychelles has already committed to the United Nations to repeal these laws in conformity with its international obligations... this discussion was the first of its nature whereby a live and mature debate was held on the issue.</i>⁴ - October 2011: Responding to a question by the Canadian HIV AIDS Legal Network on timeframes for repealing section 151, the second Secretary of the Ministry of Foreign Affairs, Sandra Michel, reportedly answered at the Human Rights Council that <i>'the repeal of the law would happen soon, it would not take a long time to repeal that section. Neither the Government nor the Seychelles society wanted it in their law anymore.'</i>⁵ 	

<p>Persecution and Discrimination</p>	<ul style="list-style-type: none"> - June 2013: A UNDP supported Ministry of Health and National AIDS Council report states that: <p style="margin-left: 20px;"><i>MSM in Seychelles remain hidden and are difficult-to-reach for research purposes due to social stigma and discrimination. Many MSM often feel the need to hide their same-sex relations from friends and family, thereby increasing their vulnerability to HIV and other infections... Males, who feel the need to hide their sexual preference for male sexual partners in order to appear heterosexual, not only increase their own vulnerability for HIV infection, but also increase the risk of HIV transmission to their female sexual partners.</i>⁶</p> - No reported incidents of violence or discrimination were found.
<p>Legislative News</p>	<ul style="list-style-type: none"> - 13 August 2014: In August 2014 the Seychelles Judicial College hosted a debate on decriminalisation of homosexuality, moderated by judges and lawyers. The panel of judges consisted of Justice Robinson, Justice Fernando and Justice Twomey. One participant reportedly stated: <i>‘The law should clearly provide for some sort of protection for the LGBTI community if decriminalization is achieved because violence persists in many countries’.</i>⁷ According to the British High Commission, this event generated a serious public discussion on the issue, which continues today.⁸ - 2013: A UNDP supported Ministry of Health and National AIDS Council report, recommending that the Penal Code be amended to decriminalise consensual sex between adults in accordance with the country’s own National Strategic Framework and National HIV Policy, states that: <p style="margin-left: 20px;"><i>The Republic of Seychelles (2011) Evaluation Report of the HIV and AIDS National Strategic Plan 2005-2009 and Roadmap for the National Strategic Plan 2012-2016 at page 59 recommends the elimination of punitive laws that criminalise certain behaviours and groups of people, namely migrant populations, IDUs, SWs and MSM and which restrict access to education, insurance and other services and freedom of movement.</i>⁹</p> - 2011: (UPR) The Seychelles accepted recommendations to repeal all provisions in its domestic law criminalising consensual sexual activity between adults of the same sex.¹⁰ The delegation from Seychelles also noted that article 27 of the Constitution prohibited discrimination on any grounds whatsoever, including sexual orientation.¹¹ Further, the delegation clarified that only non-consensual same-sex intercourse was an offence.¹² - 22 March 2011: At the Human Rights Council, Seychelles supported a historic Joint Statement on Ending Acts of Violence and Related Human Rights Violations Based on Sexual Orientation & Gender Identity.¹³ - The Employment Act 1995 (amended by Act 4 of 2006) prohibits discrimination on

the basis of sexual orientation and HIV status.¹⁴

¹ The law is : www.refworld.org/docid/4d67afc82.html

² *Penal Code, Chapter 73, 1 February 1955, s.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.'*

³ US Department of State, Bureau of Democracy, Human Rights and Labor, *Country report on human rights for 2014: Seychelles*, 25 June 2015,

<<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220154>> accessed on 19 July 2014

⁴ Today in Seychelles, *Seychelles must legalize, advocates say*, 13 August 2014,

<<https://www.facebook.com/todayinsey/posts/702980213073125>> accessed on 9 September 2015

⁵ Human Rights Council, *Human Rights Council adopts outcomes of Universal Periodic Review on Somalia, Seychelles and Solomon Islands*, 21 September 2011,

<<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11408&LangID=E#sthash.BX2Jwhji.dpuf>> accessed on 2 September 2015

⁶ Ministry of Health Seychelles, *National AIDS Council and United Nations Development*

Program, Situation Analysis of Legal and Regulatory Aspects of HIV and AIDS in Seychelles, 4 July 2014, p 74

<<http://www.undp.org/content/dam/undp/library/HIV-AIDS/Governance%20of%20HIV%20Responses/HHD-Seychelles-Legal-Assessment.pdf>> accessed on 29 August 2015

⁷ Today in Seychelles, *Seychelles must legalize, advocates say*, 13 August 2014,

<<https://www.facebook.com/todayinsey/posts/702980213073125>> accessed on 9 September 2015

⁸ British High Commission Victoria, *Same Sex Consular Marriage*, 15 June 2015,

<<https://www.gov.uk/government/world-location-news/same-sex-consular-marriage>> accessed on 9 September 2015

⁹ Ministry of Health Seychelles, *National AIDS Council and United Nations Development*

Program, Situation Analysis of Legal and Regulatory Aspects of HIV and AIDS in Seychelles, 4 July 2014, p 75

<<http://www.undp.org/content/dam/undp/library/HIV-AIDS/Governance%20of%20HIV%20Responses/HHD-Seychelles-Legal-Assessment.pdf>> accessed on 29 August 2015 (Original text of the National Strategic Framework and National HIV Policy currently unavailable.)

¹⁰ Human Rights Council, *Report of the Human Rights Council on its Eighteenth Session*, , 18 November 2011, para. 363 UN Doc A/HRC/18/2

<<http://www2.ohchr.org/english/bodies/hrcouncil/docs/18session/A.HRC.18.2.pdf>> accessed on 2 September 2015

¹¹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Seychelles*, A/HRC/18/7, 11 July 2011, para. 63

¹² Ibid. para 68

¹³ US Department of State, Office of the Spokesman, *Joint Statement on the Rights of LGBT Persons at the Human Rights Council*, 22 March 2011 <<http://www.state.gov/r/pa/prs/ps/2011/03/158847.htm>> accessed on 29 August 2015

¹⁴ The Employment Act, Section 46A, : http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_127612.pdf accessed on 9 September 2015