

 Sri Lanka		
<p>National Law:</p> <p><i>Penal Code (as amended by the Penal Code (Amendment) Act, No. 22 of 1995)¹</i></p> <ul style="list-style-type: none"> - S365: Unnatural Offences² - S365A: Gross Indecency³ 	<p>Maximum Penalties:</p> <ul style="list-style-type: none"> - 10 years' imprisonment and a fine - 2 years' imprisonment and a fine 	<p><u>Treaty Ratification</u></p> <p>CAT</p> <p>CEDAW</p> <p>CEDAW OP</p> <p>CRC</p> <p>ICCPR</p> <p>ICCPR OP1</p> <p>ICESCR</p>
<p>Section 365 is applicable only to men, whilst Section 365A is equally applicable to both men and women.</p>		
<p>Enforcement</p>	<ul style="list-style-type: none"> - 2014: The 2014 US Report on Human Rights Practices found that Sri Lanka's laws criminalising LGBT people were rarely enforced.⁴ - 2014: A shadow report by Equal Ground, submitted before the United Nations Human Rights Committee, suggests that while there have been no convictions in Sri Lanka since it gained independence in 1948, the police harassed and extorted money or sexual favours from LGBT individuals with impunity and assaulted gay men and lesbians in Colombo and other areas.⁵ 	
<p>Statements by Public Figures</p>	<ul style="list-style-type: none"> - 9 June 2015: Wimal Weerawansa, from the National Freedom Front, asked for the Foreign Minister Mangala Samaraweera's arrest after the he had voted against a Russian resolution calling for the withdrawal of partner benefits to gay and lesbian UN employees. He reportedly stated that: <i>'Being gay and lesbian-friendly has become our foreign policy today. This will result in negative consequences in the long run for Sri Lanka... It will affect our culture. Therefore, the minister should be arrested for violating the penal code.'</i>⁶ It was further reported that the Deputy Foreign Affairs Minister Ajith P Perera <i>'categorically denied that Sri Lanka had voted to promote gay rights and said the circular was an administrative matter'</i>. On the same issue, another opposition leader, Udaya Gammanpila, general secretary of the Pivithuru Hela Urumaya party, said equality did not mean all groups should be recognised as equals.⁷ - 15 October 2014: Following a review of Sri Lanka's record on civil and political rights by the United Nations Human Rights Committee on 7-8 October in Geneva, 	

	<p>Additional Solicitor General Bimba Jayasinghe Thilakeratne stated: <i>‘Article 12.1 [of the Constitution] ensures equality for sexual orientation and gender identity’</i> and that under Article 12.2 <i>‘laws discriminating on the grounds of sexual orientation and gender identity are unconstitutional’</i>. However, she specified, <i>‘Sections 365 and 365A [of Sri Lanka’s Penal Code] do not target any particular group but are there to protect public morality.’</i>⁸</p> <ul style="list-style-type: none"> - 24 April 2014: The Minister for Economic Affairs, Basil Rajapaksa, reported to the press that the government had turned down the option of British aid which was offered on the condition that Sri Lanka move to legalise gay marriage.⁹ - 22 January 2014: Current Foreign Minister and then opposition politician, Mangala Samaraweera, accused the government of trying to discredit his reputation with accusations surrounding his sexuality. A leaked WikiLeaks cable reportedly revealed the MPs sexuality. He subsequently accused a man of stealing from his house, who later claimed to have been having sex with him: <i>‘My private life, though private has never been a secret.... However, today the Rajapaksa regime, in preparation for provincial elections to be followed by Presidential elections seems to be hell bent on destroying me using the confused hallucinations of a misguided youth.’</i>¹⁰ - 25 June 2010: Then Sri Lankan Prime Minister, D.M. Jayaratne reportedly told LGBT rights groups that the government was open to dialogue on the issue of decriminalisation, but warned they would not take any decision which would <i>‘hurt the culture of the country...It is not wrong for them to seek rights. But we must know what exactly they want. They should communicate that to us and then we will see if it hurts our culture and take a decision accordingly.’</i>¹¹
<p>Persecution and Discrimination</p>	<ul style="list-style-type: none"> - March 2014: Several instances of abuse of gay people were described in a shadow report by Equal Ground, submitted before the United Nations Human Rights Committee: <p>Violence: The report included many stories of violence, including a trans-man who was attacked and chased by men on motorbikes as he and his boyfriend tried to escape in their car; a 16 year-old-student who was raped by two older students; and two men who in 2008 claimed to have been abducted and tortured on account of their sexuality. According to a 2011 study, <i>‘37% of LGBT respondents were victims of physical abuse, threats, assault, harassment, rape, or battery.’</i>¹²</p> <p>Police abuse: <i>‘Sri Lankan police conduct arbitrary arrests of LGBT individuals without such evidence on the purported grounds that the arrested individuals, being lesbian, gay, bisexual or transgender, will commit such acts in the future. Most of these arrests lead not to the filing of charges, but to bribery, blackmail, extortion, violence or coerced sexual favours.’</i>¹³</p>

	<ul style="list-style-type: none"> - 14 November 2013: Gay rights campaigners in Sri Lanka were reportedly ordered to stop campaigning before a Commonwealth Heads of Government meeting.¹⁴ - 2012: UNHCR reports that one gay rights group, Companions on a Journey, was forced to close following exposure in the press as a group ‘<i>promoting homosexuality</i>’. One member of the group, whose name was reported in the paper, was evicted by his landlord. The office of the organisation was searched by police, and a number of gay activists questioned for several hours.¹⁵
Legislative News	<ul style="list-style-type: none"> - A draft of a Bill of Rights, prepared by a Committee reporting to the Ministry of Disaster Management and Human Rights, expressly includes sexual orientation as a protected characteristic.¹⁶ The Bill has now been submitted to the Ministry of Justice for review, as mandated by the National Human Rights Action Plan adopted by Cabinet in 2011. - 2014: During a review of its record on civil and political rights by the United Nations Human Rights Committee on October 7-8 in Geneva, the Government of Sri Lanka expressly stated: ‘<i>Article 12 of the Constitution recognizes non-discrimination based on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any one of such grounds as a Fundamental Right. This measure protects persons from stigmatization and discrimination on the basis of sexual orientation and gender identities.</i>’¹⁷ - 2012: During the second cycle of its Universal Periodic Review, Sri Lanka rejected the recommendations to decriminalise consensual same-sex sexual conduct.¹⁸

¹ The text of the law is :

http://www.lawnet.lk/section.php?file=http://www.lawnet.lk/docs/statutes/cons_stat_up2_2006/in dexes/2001Y1V19C.html

² Penal Code (as amended 1995), s.365: ‘Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be punished with fine and where the offence is committed by a person over eighteen years of age in respect of any person under sixteen years of age shall be punished with rigorous imprisonment for a term not less than ten years and not exceeding twenty years and with fine and shall also be ordered to pay compensation of an amount- determined by court to the person in respect of whom the offence was committed for injuries caused to such person.’

³ Penal Code (as amended 1995), s.365A: ‘Any person who, in public or private, commits, or is a party to the commission of, or procures or attempts procure the commission by any person of, any act of gross indecency with another person, shall he guilty of an offence, and shall be punished with imprisonment of either description, for a term which may extend to two years or with fine or with both and where the offence is committed by a person over eighteen years of age in respect of any person under sixteen years of age shall be punished with rigorous imprisonment for a term not less than ten years and not exceeding twenty years and with fine and shall also be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person.’

⁴ Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2014: Sri Lanka* (US Department of State June 2014)

<<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236650>>

accessed on 31 August 2015

⁵ Equal Ground & Others, *Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Sri Lanka: A Shadow Report* (OHCHR December 2013)

<http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/LKA/INT_CCPR_ICO_LKA_15986_E.pdf> accessed on 19 July 2014

⁶ Darren Wee, *Sri Lanka's foreign minister threatened with arrest after voting for gay rights at UN* (Gay Star News 10 June 2015) <<http://www.gaystarnews.com/article/sri-lankas-foreign-minister-threatened-arrest-after-voting-gay-rights-un100615/#sthash.AHzxBT9.IOdbQ9xF.dpuf>> accessed on 29 August 2015

⁷ Ibid

⁸ Equal Ground, *Equal Ground Press Release - Positive Outcome at the UN!* (15 October 2014) <<http://equal-ground.org/news/equal-ground-press-release-positive-outcome-at-the-un>> accessed on 29 August 2015

⁹ The Republic Square, *Government says no to gay marriage in Sri Lanka* (The Republic Square 24 April 2014)

<<http://www.therepublicsquare.com/politics/2014/04/24/government-says-no-to-gay-marriage-in-sri-lanka/>> accessed on 19 July 2014

¹⁰ Mangala Samaraweera, *Rajapaksa To Invoke Archaic Victorian Anti-Gay Laws Against Me* (Colombo Telegraph 22 January 2014) <<https://www.colombotelegraph.com/index.php/rajapaksa-to-invoke-archaic-victorian-anti-gay-law-against-me/>> accessed on 19 July 2014

¹¹ Indika Sri Aravinda, *Lanka for dialogue with gays* (Daily Mirror Sri Lanka 25 June 2010)

<<http://www.dailymirror.lk/4626/lanka-for-dialogue-with-gays>> accessed on 19 July 2014

¹² Equal Ground & Others, *Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Sri Lanka: A Shadow Report*, page 10 (OHCHR December 2013)

<http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/LKA/INT_CCPR_ICO_LKA_15986_E.pdf> accessed on 19 July 2014

¹³ Ibid, at page 5

¹⁴ Tris Reid-Smith, *Sri Lanka gays forced underground as world leaders gather for summit* (Gay Star News 11 November 2013) <<http://www.gaystarnews.com/article/sri-lanka-gays-forced-underground-world-leaders-gather-summit141113>> accessed on 19 July 2014

¹⁵ UN High Commissioner for Refugees (UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka*, 21 December 2012, HCR/EG/LKA/12/04, page 35/6

<<http://www.refworld.org/docid/50d1a08e2.html>> accessed on 29 August 2015

¹⁶ Ministry of Disaster Management and Human Rights, *Draft Bill of Rights*, Article 12: Right to equality and freedom from discrimination (Secretariat for Coordinating the Peace Process)

<<http://www.peaceinsrilanka.lk/human-rights/bill-of-rights-final-draft>> accessed on 29 August 2015

¹⁷ Human Rights Committee, *Replies of Sri Lanka to the list of issues*, CCPR/C/LKA/Q/5/Add.1, para. 43 (2 September 2014)

<http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/LKA/CCPR_C_LKA_Q_5_Add-1_18124_E.doc> accessed on 29 August 2015

¹⁸ Human Rights Council, *Report of the Working Group on the Universal Periodic Review* (18 December 2012) UN Doc A/HRC/22/16