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Oman

Country Report for use in refugee claims based on persecution relating to sexual orientation and gender identity

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This document was prepared by law students and highlights information about publicly-accessible country conditions available at the time it was prepared. It is not exhaustive, nor is it updated on a regular basis. The information provided here is not a substitute for legal advice or legal assistance, and the International Human Rights program at the University of Toronto, Faculty of Law cannot provide such advice or assistance.

I: Introduction

This report reveals that homosexual acts in Oman are considered criminal under the Omani Penal Code if those acts cause a public nuisance. Homosexual acts are punishable by a maximum of three years' imprisonment. No jurisprudence could be found demonstrating how the Penal Code has been applied in relation to homosexual acts. Also, no Canadian jurisprudence was found for any Omani queer refugee claimant's case.

Information regarding the situation for homosexuals is scarce. Some sources claim that homosexuality is tolerated so long as it is not visible. An interview with a gay expatriate in Oman discusses a small, hidden scene of men who identify as gay, and distinguishes this from the comparatively large population of men who have sex with men.

A strong social stigma is still attached to homosexuality, however, and Muslim Omanis are held to a much stricter standard than Westerners.

No information could be found regarding the activities of mutaween with respect to homosexual activities in Oman.

II: Legislation

1. International Lesbian and Gay Association, "Oman."
<<http://ilga.org/ilga/en/countries/OMAN/Law>>.

- **It is illegal to engage in same-sex acts according to the Omani Penal Code, 1974, art. 223.**

Article 223 reads, "Any individual who commits sexual acts with a person of the same sex shall be prosecuted, even if no complaint is made, for committing homosexual or lesbian acts if the act causes a public nuisance and shall be punished with a term of imprisonment of between six months and three years."

2. International Lesbian, Gay, Bisexual, Trans and Intersex Association, *A world survey of laws prohibiting same sex activity between consenting adults*, (May 2010), online:
<http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2010.pdf>.

- **Examines articles 33 and 223 of the Omani Penal Code of 1974**
- **Article 33: All misdemeanours, including homosexual and lesbian intercourse, are deemed as disgracing crimes**
- **Article 223: Anyone who commits erotic acts with a person of the same sex shall be sentenced to imprisonment from six months to three years. The suspects of homosexual or lesbian intercourse shall be prosecuted without a prior complaint, if the act results in a public scandal. The suspects of lesbian intercourse among ascendants, descendants or sisters shall only be prosecuted upon a complaint from a relative or a relative by marriage forth-degree removed.**

The document surveys legislation pertaining to state-sponsored homophobia. The Omani legislation can be found on page 27.

3. Omani Constitution, 6 November 1996. <<http://www.servat.unibe.ch/icl/mu00000.html>>.

- **There is nothing in the Omani constitution governing marriage.**

III: Jurisprudence

No relevant Canadian jurisprudence found on queer refugee claimants from Oman.

1. LexisNexis Quicklaw

Tribunal Cases, Immigration and Refugee Board Decisions

Search terms: “oman & homosex! OR queer OR gay OR sexual orientation OR lesbian OR bisexual!”

Search terms: “oman & mutaw!”

Court Cases, Federal Court of Canada, Group Source

Search terms: “oman & homosex! OR queer OR gay OR sexual orientation OR lesbian OR bisexual!”

Search terms: “oman & mutaw!”

2. Westlaw

Cases, Immigration

Search terms: “oman & homosex! OR queer OR gay OR sexual orientation OR lesbian OR bisexual!”

Search terms: “oman & mutaw!”

IV: Governmental Reports

1. Immigration and Refugee Board of Canada, *Oman: The situation of homosexuals, including their legal status, availability of state protection and acceptance by society* (25 October 2004), online: <<http://www.unhcr.org/refworld/type,QUERYRESPONSE,,OMN,42df614d38,0.html>>.

- **Homosexuality is illegal under section 32 of the Penal Code, with a maximum penalty of three years’ imprisonment.**
- **Homosexuality is tolerated as long as it is not visible**

This is a country report from the Immigration and Refugee Board of Canada that reviews the situation for homosexuals in Oman. Information regarding the situation was found to be scarce.

V: Online Sources

1. Muscatel Confidential, “Exclusive Interview: Being Gay in The Sultanate of Oman from the POV of An English Gentleman. And advice for visitors who are FOD,” (Friday, February 19, 2010), online: <<http://muscatconfidential.blogspot.com/2010/02/exclusive-interview-being-gay-in.html>>

As Islam opposes homosexuality, there is still a significant social stigma attached to being gay in Oman. It appears that the degree of prejudice depends on the individual’s location and upbringing. Based on an interview with a gay man living in Oman, those who are openly gay in Oman tend to be more educated, cosmopolitan and urban.

There is also a difference between men who have sex with men, cultural gender experimentation (known as Khanith) and homosexuality. Being “gay” is perceived as a Western trend by some, and is undesirable in Omani society.

An excerpt from the interview:

“I think you have to separate men in Oman who actively identify themselves as “gay” and men who are simply having sex with men. The first group is probably pretty small, and what we in the West think of as a “gay community” comes down to some fairly small groups of men, mostly in and around Muscat – more a set of sometimes intersecting sets of friends. To my knowledge, there are no formally organized LGBT groups (although times are changing, and who knows what some enterprising group of students might be up to), and there are no full-time, openly identified gay bars/restaurants/hangouts.”

2. Forum, “Same Sex Relationships Increasing in Oman.”
<http://www.omanforum.com/forums/archive/index.php/t-12237.html>
 - **Same sex relationships perceived to be increasing in Oman. Original author posts that two Omani men trying to marry in the Omani interior were arrested and sentenced.**
 - **Comments show a general disdain for homosexuality. Muslim Omanis were held to a stricter standard as Muslims as compared to westerners**
3. Muscatel Confidential. “Stop Press: New Omani Blog Community Queer blocked by ... Omantel” February 14, 2010. <http://muscatconfidential.blogspot.com/2010/02/stop-press-new-omani-blog-community.html>

The media in Oman are almost entirely government-controlled. Grassroots media outlets are sparse, and run the risk of being shut down. An Omani-run blog on queer issues, “Community Queer,” was recently

blocked by the internet provider Omantel (5). It has since been unblocked, and can only be viewed by invitation.

VI: Scholarship

1. A. Hendriks, R. Tielman, & E. van der Veen, *The Pink Book: A Global View of Lesbian and Gay Liberation and Oppression* (Buffalo: Prometheus Books, 1993) at 313.

- **“Closeted homosexuality is tolerated. There is no visible social support for gay and lesbian rights.”**

This book contains a country-by-country survey of official and social attitudes towards gays and lesbians. This short excerpt above is the only information in the book regarding social attitudes in Oman. The book is available at the Bora Laskin Law Library at the University of Toronto Faculty of Law.

2. Mark N. Katz, “Assessing the Political Stability of Oman” (2004) 8:3 *Middle East Review of International Affairs* 1-10.

- **The Sultan of Oman is generally believed to be homosexual**
- **Omanis tend not to discuss the sexual orientation of the Sultan, at least openly, as it is believed that open discussion of the Sultan’s alleged homosexuality could result in “negative consequences” such as imprisonment**
- **Those interviewed by the author all agreed that the Sultan’s alleged homosexuality raises serious doubts as to his legitimacy as a ruler**

This article examines the political and economic stability of the sultanate of Oman, including the sultan’s alleged homosexuality as an important political factor in the event of a regime crisis. Information relating to public opinion regarding the sultan’s