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State-sponsored Homophobia

A world survey of laws prohibiting
same sex activity between
consenting adults

Daniel Ottosson

an ILGA report

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The purpose of this annual report on State-sponsored Homophobia, as stated since its first edition in 2007, is to name and shame the states which in the 21st century deny the most fundamental human rights to LGBTI people, i.e. the right to life and freedom, in the hope that with every year more and more countries decide to abandon the 'community' of homophobic states.

Compared to last year's report, where we listed the 77 countries prosecuting people on ground of their sexual orientation, this year you will find "only" 76 in the same list, including the infamous 5 which put people to death for their sexual orientation: Iran, Mauritania, Saudi Arabia, Sudan and Yemen (plus some parts of Nigeria and Somalia). One country less compared to the 2009 list may seem little progress, until one realizes that it hosts one sixth of the human population.

We are referring of course to India, where the High Court of Delhi ruled on July 2nd 2009 that the section 377 of the Indian Penal Code (inherited from the British Empire in 1860) could not be applied to sexual activities between consenting adults. The ruling affects the whole of India, with the exception of Jammu and Kashmir, where a different penal code applies, and unless overturned by the Supreme Court – an unlikely event, considering that the Government did not appeal against the ruling – it will be permanent, thus freeing one sixth of the LGBTI world population from legal persecution. A historical result, achieved thanks to a decade long battle waged by ILGA member organisations in the country.

The hope is of course that the Indian example will be followed by other Commonwealth or non-Commonwealth countries, applying the same section 377 against same-sex activities between consenting adults (i.e. Bangladesh, Burma/Myanmar, Malaysia, Pakistan and Singapore) or applying laws inspired by the British colonial penal code, encouraged by the words of Chief Justice A. P. Shah of the Delhi High Court:

"If there is one constitutional tenet that can be said to be underlying theme of the Indian Constitution, it is that of 'inclusiveness'. This Court believes that the Indian Constitution reflects this value deeply ingrained in Indian society, nurtured over several generations. The inclusiveness that Indian society traditionally displayed, literally in every aspect, is manifest in recognizing a role in society for everyone. Those perceived by the majority as 'deviants' or 'different' are not on that score excluded or ostracized."

If one substitutes 'Indian Constitution' with 'Human Rights Declaration' and 'Indian society' with 'Humankind', one can then see in all its clarity what homophobia really is – yet another manifestation, together with misogyny, racism and any hate based ideology, of the biggest abominations of all: the promotion of inequality among equals, the incitement to hatred against members of the same human family, the scape-goating of innocent people, in short – the de-humanisation of fellow human beings for religious, political or economical reasons.

How sad it is then, to see that for a country which has decided to abandon the community of hatred against LGBTI people, there is a part of another country which, unsatisfied with the homophobic legislation it already has, would like to increase the persecution against lesbians, gays and trans people (and against those who refuse to report them!), as if becoming the beacon of homophobia in the world represented some sort of honour instead of endless shame.

We are referring of course to Uganda and to its infamous 'Anti-Homosexuality' bill. Fortunately, as we write, the international campaign of governments, human rights NGOs and LGBTI organisations has managed to lessen the support for this legislative monstrosity and the likelihood of its approval diminishes every day. The most worrying aspect of the Ugandan issue, however, is that it has confirmed the existence of a network of fundamentalist churches

strongly committed to the criminalization of LGBTI people wherever possible – upholders of human rights everywhere should double their efforts and act together against this threat.

Our annual report is not limited, however, to the list of the homophobic countries. While it is essential for the public and for activists to be aware of (and to act upon) the shameful record of the countries sponsoring homophobia, it is also important and very satisfactory to realise that the strong fight activists have to face is producing results and that equality for LGBTI people is a growing trend in the world, albeit not with the pace we would like it to have. This is why at the end of the report the reader can also find the list of countries which take the promotion of equality for LGBTI people very seriously and act accordingly. For this year we are happy to see Argentina and the Federal District in Mexico joining the community of states and local authorities recognising equal marriage rights to same-sex couples – an example of genuine inclusiveness, which will set the standard for many to follow.

Gloria Careaga & Renato Sabbadini
Co-secretaries general

ILGA, the International Lesbian, Gay, Bisexual, Trans and Intersex Association

ILGA is a world-wide network of national and local groups dedicated to achieving equal rights for lesbian, gay, bisexual, trans and intersex (LGBTI) people everywhere.

Founded in 1978, it now has more than 700 member organizations.

Every continent and approximately 110 countries are represented.

ILGA is to this day the only international non-governmental community-based association focused on fighting discrimination on grounds of sexual orientation and gender identity as a global issue.

www.ilga.org

Information is one of the most important tools in effective human rights work, whether it is performed by protest campaigns, lobbying, parliamentary work or diplomacy. However, to collect information on the legal situation regarding LGBTI issues is not always easy. This can be due to laws being changed all the time, and due to contradicting and nonexistent sources. The aim of this report is, therefore, to try to consolidate the latest research on the topic.

The report is based on factual macro and micro studies of the legal systems and the laws in detail, or from second hand sources when the legal texts have not been possible to obtain. Due to the fact that the report aims to present the most updated information, most of the information comes from governmental as well as non-governmental websites on Internet and not from printed material. The report only deals with legislation criminalising consensual sexual acts between persons of the same sex in private above the age of consent. Laws relating to such acts in public, with under aged persons, by force or by any other reason are not included. Nor does it include countries where such acts are legal.

This year's report contains two pieces of major news. Firstly, on 2 July 2009, the High Court of Delhi declared section 377 of the Indian Penal Code invalid in terms of sexual acts between consenting adults.¹ The verdict is applicable to all Indian states except Jammu and Kashmir.² Secondly, Fiji has repealed its' sodomy laws by adopting a new Penal Code. The Penal Code entered into force on 1 February 2010.³

A major piece of news in last year's report was the United Nations declaration supporting the rights of LGBTI people. It was presented at the UN General Assembly on 18 December 2008, and has the support of 66 countries from all continents. Amongst others the declaration reaffirms that the principle of non-discrimination applies to all human beings regardless of sexual orientation or gender identity, condemns human rights violations of LGBTI people, and urges all states to decriminalise consensual adult relations between persons of the same sex.

References to all legislation can be found in the foot notes, the foot note list and the source list at the end of the survey.

For the third year in a row, ILGA has also included in this report a list of countries according to their legislations affecting LGBTI people. This will allow readers to get a quick and comprehensive overlook on the legal situation in the world: from countries penalising homosexual activity with death penalty to the few ones allowing adoption for same sex couples. Along the same line, ILGA has published a map on LGBTI rights that can be used to raise awareness of people on the many laws affecting LGBTI people in the world. It is available on www.ilga.org.

If you have any additional information not available in this report, we would be grateful if you could contact us at information@ilga.org, and we will investigate the matter.

The research is conducted by Daniel Ottosson. This ILGA report is copyright free provided you mention both the author and ILGA, the International Lesbian, Gay, Bisexual, Trans and Intersex Association. Free digital versions of the report in Word format are available for groups to print. We wish to thank the many volunteers who translated this report in Spanish, French and Portuguese.

AFRICA

Political and State-Sponsored Homophobia on the increase in the last decade

The last ten years the focus on equal rights, law reforms, community cohesion, diversity, families and migrations for Lesbian, Gay, Bisexual, Trans and Intersex (LGBTI) Africans has gone from bad to worse. The possibility for legal liberation on the grounds of sexual orientation and gender identity has been further thrown into chaos. This assessment is a universal representation of the lives of LGBTI people in Africa, including South Africa with its enviable constitution on same sex rights.

Human Rights defenders across Africa have faced serious threats to their lives, and many have fled the continent to safety in Europe and America. Many of those who represent "the face of the faceless and the voice of the voiceless" are scattered abroad. This bears painful consequences for activism in Africa and for activists in the diaspora.

Thirty-eight countries in Africa have laws criminalizing homosexuality, some with the death penalty, and many more with harsh jail sentences. By far, it's the continent with the worst laws on the books when it comes to homosexuality and other sexual minorities, a phenomenon which is in part rooted in bad colonial-era laws and political situations, religious autonomy, strong negative belief in cultural and family values, and the evil of patriarchy.

Politics and State-Sponsored Homophobia

More than 50% of African governments have taken action and steps to formally criminalise same sex union, whilst the most venomous are the current debate in Uganda and the prosecution of a gay couple in Malawi. Political- and State-Sponsored Homophobia have been on the increase in the last decade.

In December 2008, when the United Nations Assembly in New York issued a declaration to decriminalize homosexuality, only six African countries signed. This is, nonetheless, a success and the result of a joint effort by the Hirschfeld-Eddy-Foundation, LSVD's Human Rights Foundation, ILGA and COC, which sent activists to New York. Together with Pan Africa ILGA and other international allies, this lobbying effort resulted in Gabon, Sao Tome and Principe, Mauritius, Central Africa Republic, Cape Verde, and Guinea Bissau signing the statement to decriminalise homosexuality.

The popularity of gay rights and advocacy for the social status of same sex relationships have provoked politicians and government in Africa to react, including the infamous voice of President Mugabe, who compared homosexuals to animals and called gays and lesbians "worse than dogs and pigs".

Recent cases of criminalisation of same sex relationships have worsened a situation already characterized by harassment, humiliation, extortion, arbitrary arrests, judicial violence imprisonment, torture, hate crimes and honour killing on the grounds of sexual orientation and gender identity all over Africa. These abuses are happening whether we like it or not, whether we admit it or not. South Africa is ranked the 4th country in the world with the highest rate of crimes: every year, there are numerous cases of hate crimes towards LGBTI people and LGBTI advocates working to deliver more justice. The abuse is escalating.

Religion and Religious Homophobia

In 2003, the American Episcopal Diocese appointed its first openly gay bishop, Gene Robinson, to office in New Hampshire. The Primate of All Nigeria Anglican Communion, was extremely vocal about his views: Most Rev. Peter Akinola said that, "Anglican orthodox members of this church are poised to do the mission of the church; and those who say that gay is their concern, woe onto them." The Nigerian anti-gay bill had the blessing of the Nigerian Anglican Church and its leader Archbishop Peter Akinola, as well as the former Nigerian President Olusegun Obasanjo, who declared that homosexual practice "is clearly unbiblical, unnatural and definitely unAfrican."

Tradition/Culture

Homosexuality in Africa has been blamed on Western European influence and colonialism. It has also been blamed on the radical intervention of technology, but homosexuality has been present in the African culture throughout history. In many African societies, it is not uncommon to acknowledge same sex relationships. Unfortunately, modern sceptics are ignoring factual history. African leaders believe that behaviours deviating from the normal gender roles are phases that the children encounter and can be addressed only through ensuring regulatory laws to prevent the unknown and unacceptable sexual behaviours.

Implications for Sexuality, HIV/AIDS & Health

The struggle against HIV/AIDS is also undermined by criminalization of same sex relationships. The Human Rights Committee has noted that laws criminalizing homosexuality “run counter to the implementation of effective education programmes in respect of HIV/AIDS prevention” by driving marginalized communities underground. A finding supported by UNAIDS, Former president of Botswana Festus Mogae and UN Special Envoy for HIV/AIDS in Africa Elizabeth Mataka have spoken out firmly and forcefully against criminalization of homosexuality in Africa. African LGBTI people have been struggling to have access to public health services the level of double discrimination faced is fuelled by state-sponsored homophobia.

Over the past twenty years, there has been a growing recognition of the relativity of sexual norms and of the difficulties of accepting Western conceptions of sexuality in Africa, including gay rights and public recognition of same sex families.

- An implication in our view is that homophobia is “deep-rooted” in culture, religion, music and law. Expressions of homosexuality are repressed by condemning homosexuals, their families and friends.
- Mocking, shame, ostracism, scorn, violence and prayers for salvation are reported means of keeping homosexuals in the closet or making them “normal.” Some homosexuals respond to this stigmatization by moving away from their countries, communities, families; others build supportive networks outside their communities; while others struggle to keep it a secret by “pretending to be heterosexual”.
- Same sex loving people often lead multiple secretive lives, men or women on the Down Low, also known as DL. Men who have sex with men (MSM) often do not admit they are gay or bisexual; these are largely married men.
- Homosexuality is often aligned with occultism.
- Many African governments have no mandate or projected plans to include homosexuals (Lesbians, Gays, Bisexuals and Trans) in sexual health provisions and services.
- Inaccurate media publications, unethical reporting, dubious and negative publicity on matters of HIV and homosexuality in Africa need to be addressed to change attitudes.

The Way Forward/Recommendations

- Legal and policy reform is urgently needed on all these fronts to legally reinforce same sex relationships, the legal status of same sex love and the full protection of human rights in the context of HIV/AIDS.
- Address underlying prejudices and discrimination through education programs in schools and community dialogue to help create a more supportive environment for same sex union
- Promote media training, explicitly designed to discourage attitudes of discrimination and stigmatisation towards sexual reproductive health and rights and same sex relationships, especially in respect of HIV/AIDS. Encourage the media to adopt ethical rules of conduct that prohibit disclosure of confidential patient information.

We hope that in sharing this brief overview, we give a clear understanding of the issues of same sex relationship, LGBTI human rights in Africa and their implications for sexuality and HIV/AIDS.

Rev Rowland Jide Macaulay & Linda RM Baumann

**Pan Africa ILGA Board members
Africa’s representatives to the ILGA World Board**

Algeria

Male/Male Illegal

Female/Female Illegal

Penal Code (Ordinance 66-156 of June 8, 1966) ^{4 5}

Art. 338 - "Any person guilty of a homosexual act shall be punished with a term of imprisonment of between two months and two years and a fine of between 500 and 2,000 Algerian dinars."

Angola

Male/Male Illegal

Female/Female Illegal

Penal Code of September 16, 1886, as amended in 1954 (Inherited from the Portuguese colonial era) ⁶

Articles 70 and 71 ad security measures on people who habitually practice acts against the order of nature, stating that such people shall be sent to labor camps.

For text of the law in Portuguese – see Mozambique section!

Botswana

Male/Male Illegal

Female/Female Illegal

PENAL CODE [Chapter 08:01] ⁷

Section 164. Unnatural offences

"Any person who;

(a) has carnal knowledge of any person against the order of nature;

(b) has carnal knowledge of any animal; or

(c) permits any other person to have carnal knowledge of him or her against the order of nature, is guilty of an offences and is liable to imprisonment for a term not exceeding seven years."

Section 165. Attempts to commit unnatural offences

"Any person who attempts to commit any of the offences specified in section 164 is guilty of an offence and is liable to imprisonment for a term not exceeding five years."

Section 167. Indecent practices between persons

"Any person who, whether in public or private, commits any act of gross indecency with another person, or procures another person to commit any act of gross indecency with him or her, or attempts to procure the commission of any such act by any person with himself or herself or with another person, whether in public or private, is guilty of an offence."

Burundi

Male/Male Illegal

Female/Female Illegal

Law No. 1/05 of 22 April 2009 concerning the revision of the Penal Code ⁸

Article 567:

"Whoever has sexual relations with someone of the same sex shall be punished with imprisonment for three months to two years and a fine of fifty thousand to one hundred thousand francs or one of those penalties." (Unofficial translation)

Cameroon

Male/Male Illegal

Female/Female Illegal

Penal Code of 1965 and 1967, as amended in 1972 ⁹

Section 347. Homosexuality–

“Any person who has sexual relations with a person of the same sex shall be punished with a term of imprisonment of five years and a fine of between 20,000 and 200,000 francs.”

Comoros

Male/Male Illegal

Female/Female Illegal

Penal Code of the Federal Islamic Republic of Comoros ¹⁰

Article 318. –

“(3) Without prejudice to the more serious penalties provided for in the preceding paragraphs or by articles 320 and 321 of this Code, whoever will have committed an improper or unnatural act with a person of the same sex will be punished by imprisonment of between one and five years and by a fine of 50 000 to 1 000 000 francs. If the act was committed with a minor, the maximum penalty will always be applied.”

Egypt

Male/Male Illegal

Female/Female Unclear

Sexual relations between consenting adult persons of the same sex in private are not prohibited as such. However, Law 10/1961, aimed at combating prostitution, as well as for example Penal Code article 98w on “Contempt for Religion” and article 278 on “Shameless public acts” have been used to imprison gay men in the recent years.¹¹

Law n° 10, 1961 on 'Combating of prostitution, incitement and its encouragement': ¹²

Article 9 (c) "Anyone who habitually engages in debauchery or prostitution is liable to a penalty of three months to three years imprisonment and/or a fine of LE 25-300".

Eritrea

Male/Male Illegal

Female/Female Illegal

Penal Code of 1957 (Inherited from Ethiopian rule) ¹³

Art. 600. — Unnatural Carnal Offences.

“(1) Whosoever performs with another person of the same sex an act corresponding to the sexual act, or any other indecent act, is punishable with simple imprisonment.

(2) The provisions of Art. 597 are applicable where an infant or young person is involved.”

Art.105.- Simple Imprisonment.

“(1) simple imprisonment is a sentence applicable to offences of a not very serious nature committed by persons who are not a serious danger to society.

It is intended as a measure of safety to the general public and as a punishment to the offender.

Subject to any special provision of law and without prejudice to conditional release, simple imprisonment may extend for a period of from ten days to three years; such period shall be fixed by the court.

(2) The sentence of simple imprisonment shall be served in such prison or in such section thereof as is appointed for the purpose.”

Ethiopia

Male/Male Illegal

Female/Female Illegal

The Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No. 414/2004 ¹⁴

Article 629.- Homosexual and other Indecent Acts.

"Whoever performs with another person of the same sex a homosexual act, or any other indecent act, is punishable with simple imprisonment."

Article 630.- General Aggravation to the Crime.

"(1) The punishment shall be simple imprisonment for not less than one year, or, in grave cases, rigorous imprisonment not exceeding ten years, where the criminal:

a) takes unfair advantage of the material or mental distress of another or of the authority he exercises over another by virtue of his position, office or capacity as guardian, tutor, protector, teacher, master or employer, or by virtue of any other like relationship, to cause such other person to perform or to submit to such an act; or

b) makes a profession of such activities within the meaning of the law (Art. 92).

(2) The punishment shall be rigorous imprisonment from three years to fifteen years, where:

a) the criminal uses violence, intimidation or coercion, trickery or fraud, or takes unfair advantage of the victim's inability to offer resistance or to defend himself or of his feeble-mindedness or unconsciousness; or

b) the criminal subjects his victim to acts of cruelty or sadism, or transmits to him a venereal disease with which he knows himself to be infected; or

c) the victim is driven to suicide by distress, shame or despair."

Article 106.- Simple Imprisonment.

"(1) Simple imprisonment is a sentence applicable to crimes of a not very serious nature committed by persons who are not a serious danger to society.

Without prejudice to conditional release, simple imprisonment may extend for a period of from ten days to three years.

However, simple imprisonment may extend up to five years where, owing to the gravity of the crime, it is prescribed in the Special Part of this Code, or where there are concurrent crimes punishable with simple imprisonment, or where the criminal has been punished repeatedly.

The Court shall fix the period of simple imprisonment in its judgment.

(2) The sentence of simple imprisonment shall be served in such prison or in such section thereof as is appointed for the purpose."

Gambia

Male/Male Illegal

Female/Female Illegal

Criminal Code 1965, as amended in 2005 ^{15 16}

Article 144: Unnatural offences

"(1) 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 any 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 a term of 14 years.

(2) In this section- "carnal knowledge of any person against the order of nature" includes-

(a) carnal knowledge of the person through the anus or the mouth of the person;

(b) inserting any object or thing into the vulva or the anus of the person for the purpose of simulating sex; and

(c) committing any other homosexual act with the person"

Ghana

Male/Male Illegal

Female/Female Legal

Criminal Code, 1960 (Act 29), as amended to 2003 ¹⁷

Section 104—Unnatural Carnal Knowledge.

“(1) Whoever has unnatural carnal knowledge—

(a) of any person of the age of sixteen years or over without his consent shall be guilty of a first degree felony and shall be liable on conviction to imprisonment for a term of not less than five years and not more than twenty-five years; or

(b) of any person of sixteen years or over with his consent is guilty of a misdemeanour; or

(c) of any animal is guilty of a misdemeanour.

(2) Unnatural carnal knowledge is sexual intercourse with a person in an unnatural manner or with an animal.”

Guinea

Male/Male Illegal

Female/Female Illegal

Penal Code of 1998 ¹⁸

Article 325: “Any indecent act or act against nature committed with an individual of the same sex will be punished by six months to three years of imprisonment and a fine of 100,000 to 1,000,000 Guinean francs. If the act was committed with a minor under 21 years of age, the maximum penalty must be pronounced.”

Kenya

Male/Male Illegal

Female/Female Legal

Cap.63 Penal Code ¹⁹

“Section 162. Any person who—

(a) has carnal knowledge of any person against the order of nature; or

(b) has carnal knowledge of an animal; or

is guilty of a felony and is liable to imprisonment for fourteen years:

Provided that, in the case of an offence under paragraph (a), the offender shall be liable to imprisonment for twenty-one years if—

(i) the offence was committed without the consent of the person who was carnally known; or

(ii) the offence was committed with that person's consent but the consent was obtained by force or by means of threats or intimidation of some kind, or by fear of bodily harm, or by means of false representations as to the nature of the act.”

“Section 163. Any person who attempts to commit any of the offences specified in section 162 is guilty of a felony and is liable to imprisonment for seven years.”

“Section 165. Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, is guilty of a felony and is liable to imprisonment for five years.”

(Sections amended by Act No. 5 of 2003)

Lesotho

Male/Male Illegal

Female/Female Legal

Sodomy is prohibited as a common-law offence. It is defined as "unlawful and intentional sexual relationship per anum between two human males".^{20 21}

Liberia

Male/Male Illegal

Female/Female Illegal

Penal Law, Revised Liberian Statutes²²

Section 14.74 on 'VOLUNTARY SODOMY' makes it an offence to engage in "deviate sexual intercourse" under circumstances that is not covered in Section 14.72 or 14.73. The offence is classified as a first degree misdemeanor.

Libya

Male/Male Illegal

Female/Female Illegal

Penal Code of 1953²³

Article 407: Sexual assault/rape

"(1) Any individual who has sexual intercourse with another person using violence, by means of threats or through deception shall be punished with a term of imprisonment of a maximum of ten years.

(2) This punishment shall also be imposed on any individual who has had sexual intercourse with the consent of a person who was not yet 14 years of age or with a person who did not resist on account of mental or physical disability. If the victim was not yet 14 years of age or was over 14 years of age but had not yet reached the age of 18, the maximum term of imprisonment shall be 15 years.

(3) If the offender is a relative of the victim, a guardian, a tutor or a custodian, or if the victim is his servant, or if the victim has a special dependant relationship to the offender, a term of imprisonment of between five and 15 years shall be imposed.

(4) If an individual has sexual intercourse with another person with their consent (outside marriage), the two persons involved shall be punished with a term of imprisonment of five years at most."

Article 408: Lewd acts

"(1) Any individual who commits lewd acts with a person in accordance with one of the methods specified in the preceding article shall be punished with a period of imprisonment of five years at most.

(2) This punishment shall also be imposed if the act has been committed in agreement with a person who was not yet 14 years of age or with a person who did not resist on account of a mental or physical disability. If the victim was between the ages of 14 and 18, the term of imprisonment shall be at least one year.

(3) If the offender belongs to one of the groups of offenders specified in paragraphs (2) and (3) of Article 407, a term of imprisonment of at least seven years shall be imposed.

(4) If an individual commits a lewd act with another person with their agreement (outside marriage), both parties shall be punished with a term of imprisonment."

Malawi

Male/Male Illegal

Female/Female Legal

Penal Code Cap. 7:01 Laws of Malawi ²⁴

Section 153 “Unnatural offences”

“Anyone who –

(a) has carnal knowledge of any person against the order of nature; or

(b) has carnal knowledge of any animal; or

(c) permits a male person to have carnal knowledge of him or her against the order of nature.

Shall be guilty of a felony and shall be liable to imprisonment for fourteen years, with or without corporal punishment.”

Section 156 “Indecent practices between males”

“Any male who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, shall be guilty of a felony and shall be liable to imprisonment for five years, with or without corporal punishment.”

Mauritania

Male/Male Illegal

Female/Female Illegal

Penal Code of 1984 ²⁵

“ART. 308. - Any adult Muslim man who commits an impudent act against nature with an individual of his sex will face the penalty of death by public stoning. If it is a question of two women, they will be punished as prescribed in article 306, first paragraph”.

“ART. 306(1). - Any person who commits an outrage on public decency and Islamic morals or violates the sacred places or assists in the breach, will be punished by a sentence of between three months to two years imprisonment and a fine of 5,000 to 60,000 UM, if such action is not covered by the crimes of Ghissass or Diya.”

(Unofficial translations)

Mauritius

Male/Male Illegal

Female/Female Legal

Criminal Code of 1838 ²⁶

Section 250 Sodomy and bestiality

“(1) Any person who is guilty of the crime of sodomy or bestiality shall be liable to penal servitude for a term not exceeding 5 years.”

Morocco

Male/Male Illegal

Female/Female Illegal

Penal Code of November 26, 1962 ²⁷

Article 489. "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, unless the facts of the case constitute aggravating circumstances."

Mozambique

Male/Male Illegal

Female/Female Illegal

Penal Code of September 16, 1886, as amended in 1954 (Inherited from the Portuguese colonial era) ²⁸

Articles 70 and 71 ad security measures on people who habitually practice acts against the order of nature, stating that such people shall be sent to labor camps.

Original Portuguese text:

ARTIGO 70º

(Medidas de segurança)

São medidas de segurança:

1º. – O internamento em manicómio criminal;

2º. – O internamento em casa de trabalho ou colónia agrícola;

3º. – A liberdade vigiada;

4º. – A caução de boa conduta;

5º. – A interdição do exercício de profissão;

§ 1º. – O internamento em manicómio criminal de delinquentes perigosos será ordenado na decisão que declarar irresponsável e perigoso o delinquente nos termos do § único do artigo 68º.

§ 2º. – O internamento em casa de trabalho ou colónia agrícola entende-se por período indeterminado de seis meses a três anos. Este regime considera-se extensivo a quaisquer medidas de internamento, previstas em legislação especial.

§ 3º. – A liberdade vigiada será estabelecida pelo prazo de dois a cinco anos e implica o cumprimento das obrigações que sejam impostas por decisão judicial nos termos do artigo 121º.

Na falta de cumprimento das condições de liberdade vigiada poderá ser alterado o seu condicionamento ou substituída a liberdade vigiada por internamento em casa de trabalho ou colónia agrícola por período indeterminado mas não superior, no seu máximo, ao prazo de liberdade vigiada ainda não cumprido.

§ 4º. – A caução de boa conduta será prestada por depósito da quantia que o juiz fixar, pelo prazo de dois a cinco anos. Se não puder ser prestada caução, será esta substituída por liberdade vigiada pelo mesmo prazo. A caução será perdida a favor do Cofre Geral dos Tribunais se aquele que a houver prestado tiver comportamento incompatível com as obrigações caucionadas, dentro do prazo que for estabelecido ou se, no mesmo prazo, der causa à aplicação de outra medida de segurança.

§ 5º. – A interdição duma profissão, mester, indústria ou comércio priva o condenado de capacidade para o exercício de profissão, mester, indústria, ou comércio, para os quais seja necessária habilitação especial ou autorização oficial. A interdição será aplicada pelo tribunal sempre que haja lugar a condenação em pena de prisão maior ou prisão por mais de seis meses por crimes dolosos cometidos no exercício ou com abuso de profissão, mester, indústria ou comércio, ou com violação grave dos deveres correspondentes. A duração da interdição será fixada na sentença, entre o mínimo de um mês e o máximo de dez anos. Quando o crime perpetrado for punível com prisão, a duração máxima da interdição é de dois anos. O prazo da interdição conta-se a partir do termo da pena de prisão. O tribunal poderá, decorrido metade do tempo da interdição, e mediante prova convincente da conveniência da cessação da interdição, substituí-la por caução de boa conduta. O exercício de profissão, mester, comércio ou indústria interditos por decisão judicial é punível com prisão até um ano."

ARTIGO 71º

(Aplicação de medidas de seguranças)

São aplicáveis medidas de segurança:

1º. – Aos vadios, considerando-se como tais os indivíduos de mais de dezasseis anos e menos de sessenta que, sem terem rendimentos com que provejam ao seu sustento, não exercitem habitualmente alguma profissão ou mester em que ganhem efectivamente a sua vida e não provem necessidade de força maior que os justifique de se acharem nessas circunstâncias;

2º. – Aos indivíduos aptos a ganharem a sua vida pelo trabalho, que se dediquem, injustificadamente, à mendicidade ou explorem a mendicidade alheia;

3º. – Aos rufiões que vivam total ou parcialmente a expensas de mulheres prostituídas;

4º. – Aos que se entreguem habitualmente à pratica de vícios contra a natureza;

5º. – Às prostitutas que sejam causa de escândalo público ou desobedeçam continuamente às prescrições policiais;

6º. – Aos que mantenham ou dirijam casas de prostituição ou habitualmente frequentadas por prostitutas, quando desobedeçam repetidamente às prescrições regulamentares e policiais;

7º. – Aos que favoreçam ou excitam habitualmente a depravação ou corrupção de menores, ou se dediquem ao aliciamento à prostituição, ainda que não tenham sido condenados por quaisquer factos dessa natureza;

8º. – Aos indivíduos suspeitos de adquirirem usualmente ou servirem de intermediários na aquisição ou venda de objectos furtados, ou produto de crimes, ainda que não tenham sido condenados por receptadores, se não tiverem cumprido as determinações legais ou instruções policiais destinadas à fiscalização dos receptadores;

9º. – A todos os que tiverem sido condenados por crimes de associação para delinquir ou por crime cometido por associação para delinquir, quadrilha ou bando organizado;

§ 1º. – O internamento, nos termos do n.º 2º e § 2º do artigo 70º, só poderá ter lugar pela primeira vez quando aos indivíduos indicados nos n.ºs. 1º, 2º, 7º e 9º.

Aos indivíduos indicados nos n.ºs. 3º, 4º, 5º, 6º, e 8º será imposta, pela primeira vez, a caução de boa conduta ou a liberdade vigiada e, pela segunda, a liberdade vigiada com caução elevada ao dobro, ou o internamento.

§ 2º. – Os delinquentes que forem alcoólicos habituais e predispostos pelo alcoolismo para a prática de crimes, ou abusem de estupefacientes, poderão cumprir a pena em que tiverem sido condenados e ser internados após esse cumprimento em estabelecimento especial, em prisão-asilo ou em casa de trabalho ou colónia agrícola por período de seis meses a três anos.

O internamento só pode ser ordenado na sentença que tiver condenado o delinquente.

§ 3º. – Em relação aos estrangeiros, as medidas de segurança poderão ser substituídas pela expulsão do território nacional.

§ 4º. – A aplicação de medidas de segurança que não devam ser impostas em processo penal conjuntamente com a pena aplicável a qualquer crime ou em consequência de inimputabilidade do delinquente, e bem assim a prorrogação e substituição de medidas de segurança, tem lugar em processo de segurança ou complementar, nos termos da respectiva legislação processual."

Namibia

Male/Male Illegal

Female/Female Legal

Sodomy remains a crime in Namibia according to the Roman-Dutch common-law, which was imposed by the South Africans. Common-law is a legal tradition based mainly on precedent court verdicts, why there is no codified sodomy provision in Namibia.²⁹

Nigeria

Male/Male Illegal

Female/Female Legal*

Criminal Code Act, Chapter 77, Laws of the Federation of Nigeria 1990 ³⁰

Section 214. "Any person who-

(1) has carnal knowledge of any person against the order of nature; or

(2) has carnal knowledge of an animal; or

(3) 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."

Section 215. "Any person who attempts to commit any of the offences defined in the last preceding section is guilty of a felony, and is liable to imprisonment for seven years. The offender cannot be arrested without warrant."

Section 217. "Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, is guilty of a felony, and is liable to imprisonment for three years. The offender cannot be arrested without warrant."

Note that several Northern Nigerian states have adopted Islamic Sharia laws, criminalising sexual activities between persons of the same sex. The maximum penalty for such acts between men is death penalty, while the maximum penalty for such acts between women is a whipping and/or imprisonment. These laws differ from the federal law, as most of these prohibit also sexual relations between women.

The states which have adopted such laws are:³¹

Bauchi (the year 2001), Borno (2000), Gombe (2001), Jigawa (2000), Kaduna (2001), Kano (2000), Katsina (2000), Kebbi (2000), Niger (2000), Sokoto (2000), Yobe (2001) and Zamfara (2000).

São Tomé and Príncipe

Male/Male Illegal

Female/Female Illegal

Penal Code of September 16, 1886, as amended in 1954 (Inherited from the Portuguese colonial era) ³²

Articles 70 and 71 ad security measures on people who habitually practice acts against the order of nature, stating such people shall be sent to labor camps.

For text of the law in Portuguese – see Mozambique section!

Senegal

Male/Male Illegal

Female/Female Illegal

Penal Code of 1965 ³³

Article 319:3. "Without prejudice to the more serious penalties provided for in the preceding paragraphs or by articles 320 and 321 of this Code, whoever will have committed an improper or unnatural act with a person of the same sex will be punished by imprisonment of between one and five years and by a fine of 100,000 to 1,500,000 francs. If the act was committed with a person below the age of 21, the maximum penalty will always be applied."

Seychelles

Male/Male Illegal

Female/Female Legal

Criminal Code of 1955 ³⁴

Section 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."

Sierra Leone

Male/Male Illegal

Female/Female Legal

Offences against the Person Act 1861 ³⁵

Section 61 of the above named act, criminalises buggery and bestiality, with a penalty of life imprisonment.

Somalia

Male/Male Illegal

Female/Female Illegal

Penal Code, Decree No. 5/1962 (Effective April 3, 1964) ³⁶

Article 409 Homosexuality

"Whoever

(a) has carnal intercourse

(b) 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

a) the act committed

b) is an act of lust different from carnal intercourse, the punishment imposed shall be reduced by one-third."

Article 410 Security Measures

"A security measure may be added to a sentence for crimes referred to in Articles 407, 408, and 409."

Somalia has not had a functioning central government since the fall of the dictator Mohamed Siad Barre in 1991, and the enforcement of the national Penal Code can be questioned. In the southern parts Islamic courts rule, having imposed Islamic Sharia law punishing homosexual acts with death penalty or flogging. However, Somaliland in the north has declared itself independent, and it still applies the Penal Code.³⁷

Sudan

Male/Male Illegal

Female/Female Illegal

The Penal Code 1991 (Act No. 8 1991) ³⁸

Section 148 Sodomy.

"(1) Any man who inserts his penis or its equivalent into a woman's or a man's anus or permitted another man to insert his penis or its equivalent in his anus is said to have committed Sodomy.

- (2) (a) Whoever commits Sodomy shall be punished with flogging one hundred lashes and he shall also be liable to five years imprisonment.
 (b) If the offender is convicted for the second time he shall be punished with flogging one hundred lashes and imprisonment 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."

Section 151. Indecent Acts

"Whoever commits an act of gross indecency upon the person of another person or any sexual act which does not amount to Zina or Sodomy shall be punished with not more than forty lashes and shall also be liable for imprisonment for a term which may not exceed one year or fine."

In 2003 the south parts of Sudan (also known as New Sudan) gained some autonomy, and adopted its own Penal Code the same year. As the federal Penal Code, this Penal Code criminalises sodomy, however with a milder punishment, according to the following section:

Section 318. Unnatural Offences: "Whoever has carnal intercourse against the order of nature with any person and whoever allows any person to have such intercourse with him commits an offence and shall on conviction, be punished with imprisonment for a term not exceeding ten years and may also be liable to fine; and if such intercourse is done without consent he shall be punished with imprisonment for a term not exceeding fourteen years and may also be liable to fine; provided that a consent given by a person below the age of eighteen years to such intercourse shall not be deemed to be a consent within the meaning of this section.

Explanation: Penetration is sufficient to constitute the carnal knowledge necessary to the offence described in this section."³⁹

Swaziland

Male/Male Illegal

Female/Female Legal

"Sodomy - it is sexual intercourse per anus between two human males" - is prohibited as a common law offence.⁴⁰

The Government has plans to include prohibitions of all male homosexual acts and lesbian acts in it's' revision of the Sexual Offences laws. The proposed penalties are imprisonment for a minimum period of two years, or a minimum fine of E5 000. It has, however, not been adopted as of publication of this report.⁴¹

Tanzania

Male/Male Illegal

Female/Female Illegal

Penal Code of 1945 (As amended by the Sexual Offences Special Provisions Act, 1998)^{42 43}

Section 154. Unnatural of offences

"(1) 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 commits an offence, and is liable to imprisonment for life and in any case to imprisonment for a term of not less than thirty years.

(2) where the offence under subsection (1) of this section is committed to a child under the age of ten years the offender shall be sentenced to life imprisonment."

Section 155. Attempt to commit unnatural offences

"Any person who attempts to commit any of the offences specified under section 154 commits an offences and shall on conviction be sentenced to imprisonment for a term not less than twenty years."

Section 138A. Gross indecency

"Any person who, in public or private commits, or is a party to the commission of, or procures or attempts to procure the commission by any person of, any act of gross indecency with another person, is guilty of an offence and liable on conviction to imprisonment for a term not less than one year and not exceeding five years or to a fine not less than one hundred thousand and not exceeding three hundred thousand shillings; save that where the offence is committed by a person of eighteen years of age or more in respect of any person under eighteen years of age, a pupil of a primary school or a student of secondary school the offender shall be liable On Conviction to imprisonment for a term not less than ten years, with corporal punishment, and shall also be ordered to pay compensation Of all amount determined by the court to the person in respect of whom the offence was committed or any injuries caused to that person".

Togo

Male/Male Illegal

Female/Female Illegal

Penal Code of 13 August 1980 ⁴⁴

Article 88 – "Impudent acts or crimes against the nature with an individual of the same sex are punished with three (03) years imprisonment and 100,000-500,000 franc in fine."

(Unofficial translation)

Tunisia

Male/Male Illegal

Female/Female Illegal

Penal Code of 1913 (as modified) ⁴⁵

Article 230. "The sodomy, that is not covered by any of the other previous articles, is punished with imprisonment for three years"

(Unofficial translation)

Uganda

Male/Male Illegal

Female/Female Illegal

The Penal Code Act of 1950 (Chapter 120) (as amended) ⁴⁶

Section 145. Unnatural offences.

"Any person who—

(a) has carnal knowledge of any person against the order of nature;

(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, commits an offence and is liable to imprisonment for life."

Section 146. Attempt to commit unnatural offences.

"Any person who attempts to commit any of the offences specified in section 145 commits a felony and is liable to imprisonment for seven years."

Section 148. Indecent practices.

"Any person who, whether in public or in private, commits any act of gross indecency with another person or procures another person to commit any act of gross indecency with him or her or attempts to procure the commission of any such act by any person with himself or herself or with another person, whether in public or in private, commits an offence and is liable to imprisonment for seven years."

Zambia

Male/Male Illegal

Female/Female Legal

The Penal Code Act, 1995 Edition ⁴⁷

Section 155. "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.

(As amended by No. 26 of 1933) Unnatural offences"

Section 156. "Any person who attempts to commit any of the offences specified in the last preceding section is guilty of a felony and is liable to imprisonment for seven years.

(As amended by No. 26 of 1933) Attempt to commit unnatural offences"

Section 158. "Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, is guilty of a felony and is liable to imprisonment for five years.

(As amended by No. 26 of 1933) Indecent practices between males"

Zimbabwe

Male/Male Illegal

Female/Female Legal

Criminal Law (Codification and Reform) Act (Effective July 8, 2006) ⁴⁸

Section 73. Sodomy

"(1) Any male person who, with the consent of another male person, knowingly performs with that other person 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, shall be guilty of sodomy and liable to a fine up to or exceeding level fourteen or imprisonment for a period not exceeding one year or both.

(2) Subject to subsection (3), both parties to the performance of an act referred to in subsection (1) may be charged with and convicted of sodomy.

(3) For the avoidance of doubt it is declared that the competent charge against a male person who performs anal sexual intercourse with or commits an indecent act upon a young male person—

(a) who is below the age of twelve years, shall be aggravated indecent assault or indecent assault, as the case may be; or

(b) who is of or above the age of twelve years but below the age of sixteen years and without the consent of such young male person, shall be aggravated indecent assault or indecent assault, as the case may be; or

(c) who is of or above the age of twelve years but below the age of sixteen years and with the consent of such young male person, shall be performing an indecent act with a young person."

ASIA

A rude wake up call for LGBTI activists across Asia

Across Asia today, 23 countries still criminalise homosexuality; and 4 Asian countries put our queer brothers and sisters to death for being who they are

The ILGA Asia board planned and coordinated the 4th ILGA Asia conference, which was to take place in Surabaya, Indonesia, from the 26th – 28th of March, 2010. Unfortunately, Muslim extremists forced the conference to shut down early and forced all 150 participants that had gathered from across Asia to evacuate the hotel for fear of their lives. This has been a rude wake up call for LGBTI activists across Asia and reinforces what we as an organisation are fighting for, our rights, our freedom, our acceptance as Asians and as human beings.

We as activists in Asia have a lot of work ahead. We have seen and were part of the great strides made in India, Pakistan and Nepal, but there is so much yet to be done.

Often it seems as if the LGBTI movement is fragmented. What happens in Asia is of little or no concern to those in Europe; killings in Africa have no relevance to the LGBTI community in Asia. We know now that this attitude needs to change, for we have learnt the importance of global cooperation and that our movement is based on a collective global stand that all people are created equal and all people have the same rights to life, freedom and love.

Now is the time. Now is when we all need to stand together and work as one global movement demanding our rights as human beings. We have been subjected to ridicule, censorship, imprisonment, torture. We need to stand up as human beings, no longer hiding who we are, or who we love, but being proud that who we are adds to the diversity and colour and magnificence of the planet we live in.

In Solidarity,

Poedjiati Tan & Sahran Abeysundara

**ILGA-Asia Board members
Asia's Representatives to the ILGA World Board**

Afghanistan

Male/Male Illegal

Female/Female Illegal

Penal Code, 1976 ⁴⁹

CHAPTER EIGHT: Adultery, Pederasty, and Violations of Honour

Article 427:

“(1) A person who commits adultery or pederasty shall be sentenced to long imprisonment.

(2) In one of the following cases commitment of the acts, specified above, is considered to be aggravating conditions:

a. In the case where the person against whom the crime has been committed is not yet eighteen years old.

b. ...”

In Afghan legal terminology “pederasty” appears to refer to intercourse between males regardless of age. The fact that paedophilia or sexual relations with persons under the age of consent falls under subsection 2(a) of article 427 indicates that this is the case. Terming sexual acts between adult men “pederasty” has previously not been uncommon; this occurred for example in the translations of the Criminal Codes of Albania (1977) and Latvia (1933), and in the old Russian legal tradition a “pederast” usually referred to a male who had anal intercourse with another male, regardless of age.⁵⁰

Islamic Sharia law, criminalising homosexual acts with a maximum of death penalty, is applied together with the codified Penal law. However, no known cases of death sentences have been handed out for homosexual acts after the end of Taliban rule.

Bangladesh

Male/Male Illegal

Female/Female Legal

Penal Code, 1860 (Act XLV of 1860) ⁵¹

Section 377 “Unnatural Offences”

“Whoever voluntary has carnal intercourse against the order of nature with man, woman, or animal, shall be punished with imprisonment of either description which may extend to life, or up to 10 years, and shall also be liable to fine.

Explanation: Penetration is sufficient to constitute the offence as described in this section.”

Bhutan

Male/Male Illegal

Female/Female Illegal

Penal Code 2004 ⁵²

Unnatural sex

Section 213. “A defendant shall be guilty of the offence of unnatural sex, if the defendant engages in sodomy or any other sexual conduct that is against the order of nature.”

Grading of unnatural sex

Section 214. “The offence of unnatural sex shall be a petty misdemeanor.”

Classes of crime

Section 3. “For the purpose of this Penal Code, the classes of crimes shall be as follows:

(c) A crime shall be petty misdemeanor, if it is so designated in this Penal Code or other laws and provides for a maximum term of imprisonment of less than one year and a minimum term of one month for the convicted defendant.”

Brunei

Male/Male Illegal

Female/Female Legal

PENAL CODE, CHAPTER 22, revised edition 2001⁵³

Unnatural offences.

Section 377. "Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall be punished with imprisonment for a term which may extend to 10 years, and shall also be liable to fine. [S 12/97]

Explanation: Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section."

Gaza Strip (Part of Palestinian Authority)

Male/Male Illegal

Female/Female Legal

Criminal Code Ordinance of 1936⁵⁴

Section 152 Unnatural offences

"(2) Anyone who:

- (a) commits sexual intercourse with another person against the order of nature, or
- (b) commits sexual intercourse with an animal, or
- (c) permits or allows the above mentioned acts is considered to have committed a felony punishable by imprisonment for a term of ten years."

(Unofficial translation)

Indonesia

Male/Male Legal*

Female/Female Legal*

Same-sex relations are not prohibited according to the national Penal Code. The only provision to deal with such relations is article 292 which prohibits sexual acts between persons of the same sex, if committed with a person under the legal age.⁵⁵ However, in 2002 the national parliament gave the Aceh province the right to adopt Islamic Sharia laws. Such laws do apply to Muslims only. Moreover, for example the city of Palembang in South Sumatra has introduced jail time and hefty fines for same-sex relations.⁵⁶

Iran

Male/Male Illegal

Female/Female Illegal

Islamic Penal Code of Iran of 1991⁵⁷

"Part 2: Punishment for Sodomy

Chapter 1: Definition of Sodomy

Article 108: Sodomy is sexual intercourse with a male.

Article 109: In case of sodomy both the active and the passive persons will be condemned to its punishment.

Article 110: Punishment for sodomy is killing; the Sharia judge decides on how to carry out the killing.

Article 111: Sodomy involves killing if both the active and passive persons are mature, of sound mind and have free will.

Article 112: If a mature man of sound mind commits sexual intercourse with an immature person, the doer will be killed and the passive one will be subject to Ta'azir of 74 lashes if not under duress.
Article 113: If an immature person commits sexual intercourse with another immature person, both of them will be subject to Ta'azir of 74 lashes unless one of them was under duress."

Chapter 2: Ways of proving sodomy in court

"Article 114: By confessing four lashes to having committed sodomy, punishment is established against the one making the confession.

Article 115: A confession made less than four lashes (to having committed sodomy) does not involve punishment of "Had" but the confessor will be subject to Ta'azir (lesser punishments).

Article 116: A confession is valid only if the confessor is mature, of sound mind, has will and intention.

Article 117: Sodomy is proved by the testimony of four righteous men who might have observed it.

Article 118: If less than four righteous men testify, sodomy is not proved and the witnesses shall be condemned to punishment for Qazf (malicious accusation).

Article 119: Testimony of women alone or together with a man does not prove sodomy.

Article 120: The Shariajudge may act according to his own knowledge which is derived through customary methods.

Article 121: Punishment for Tafhiz (the rubbing of the thighs or buttocks) and the like committed by two men without entry, shall be hundred lashes for each of them.

Article 122: If Tafhiz and the like are repeated three lashes without entry and punishment is enforced after each time, the punishment for the fourth time would be death.

Article 123: If two men not related by blood stand naked under one cover without any necessity, both of them will be subject to Ta'azir of up to 99 lashes.

Article 124: If someone kisses another with lust, he will be subject to Ta'azir of 60 lashes.

Article 125: If the one committing Tafhiz and the like or a homosexual man, repents before the giving of testimony by the witnesses, his punishment will be quashed; if he repents after the giving of testimony, the punishment will not be quashed.

Article 126: If sodomy or Tafhiz is proved by confession and thereafter he repents the Shariajudge may request the leader (Valie Amr) to pardon him."

Part 3: Lesbianism

"Article 127: Mosaheqeh (lesbianism) is homosexuality of women by genitals.

Article 128: The ways of proving lesbianism in court are the same by which the homosexuality (of men) is proved.

Article 129: Punishment for lesbianism is hundred (100) lashes for each party.

Article 130: Punishment for lesbianism will be established vis-a-vis someone who is mature, of sound mind, has free will and intention.

Note: In the punishment for lesbianism there will be no distinction between the doer and the subject as well as a Muslim or non-Muslim.

Article 131: If the act of lesbianism is repeated three lashes and punishment is enforced each time, death sentence will be issued the fourth time.

Article 132: If a lesbian repents before the giving of testimony by the witnesses, the punishment will be quashed; if she does so after the giving of testimony, the punishment will not be quashed.

Article 133: If the act of lesbianism is proved by the confession of the doer and she repents accordingly, the Sharia judge may request the leader (Valie Amr) to pardon her.

Article 134: If two women not related by consanguinity stand naked under one cover without necessity, they will be punished to less than hundred (100) lashes (Ta'azir). In case of its repetition as well as the repetition of punishment, hundred (100) lashes will be hit the third time."

Iraq

Male/Male Unclear

Female/Female Unclear

After the American invasion in 2003 the Penal Code of 1969 was reinstated in Iraq. This code does not prohibit same-sex relations.⁵⁸ However, various reports have shown that self-proclaimed Sharia judges have sentenced people to death for committing homosexual acts and that militias frequently have kidnapped, threatened and killed LGBT people. For example in August 2009, Human Rights Watch published a report documenting a wide-reaching campaign of extrajudicial executions, kidnappings, and torture of gay men that began in Iraq in the beginning of 2009.^{59 60 61 62}

Kuwait

Male/Male Illegal

Female/Female Legal

Penal Code, Law No. 16 of June 2, 1960, as amended in 1976⁶³

Article 193. "Consensual intercourse between men of full age (from the age of 21) shall be punishable with a term of imprisonment of up to seven years."

Such relations with a man under 21 years of age are criminalised by article 192.

Lebanon

Male/Male Illegal

Female/Female Illegal

Penal Code of 1943⁶⁴

Article 534. "Any sexual intercourse against nature is punished with up to one year of imprisonment".

Malaysia

Male/Male Illegal

Female/Female Illegal

Penal Code (Consolidated version 1998)⁶⁵

Unnatural Offences

Section 377A. Carnal intercourse against the order of nature.

"Any person who has sexual connection with another person by the introduction of the penis into the anus or mouth of the other person is said to commit carnal intercourse against the order of nature.

Explanation

Penetration is sufficient to constitute the sexual connection necessary to the offence described in this section."

Section 377B. Punishment for committing carnal intercourse against the order of nature.

"Whoever voluntarily commits carnal intercourse against the order of nature shall be punished with imprisonment for a term which may extend to twenty years, and shall also be liable to whipping."

Section 377C. Committing carnal intercourse against the order of nature without consent, etc.

"Whoever voluntarily commits carnal intercourse against the order of nature on another person without the consent, or against the will, of the other person, or by putting other person in fear of death or hurt to the person or any other person, shall be punished with imprisonment for a term of not less than five years and not

more than twenty years, and shall also be liable to whipping.”

Section 377D. Outrages on decency.

“Any person who, in public or private, commits, or abets the commission of, or procures or attempts to procure the commission by any person of, any act of gross indecency with another person, shall be punished with imprisonment for a term which may extend to two years.”

Moreover, several states in Malaysia have instated Islamic Sharia laws, applying to male and female muslims, criminalising homosexual and lesbian acts with up to three years imprisonment and whipping.⁶⁶ The Sharia Penal law in the Malaysian state of Syriah prescribes penalties for sodomy (Liwat) and lesbian relations (Musahaqat) with fines of RM5,000.00, three years imprisonment and 6 lashes of the whip. All these penalties can be combined.⁶⁷

Maldives

Male/Male Illegal

Female/Female Illegal

The Penal Code of Maldives does not regulate sexual conduct.⁶⁸ It is instead regulated by uncodified Muslim Sharia law, which criminalises homosexual acts between both men and between women. For men the punishment is banishment for nine months to one year or a whipping of 10 to 30 strokes, while the punishment for women is house arrest for nine months to one year.⁶⁹ There have been reports of women being sentenced to a whipping as well for lesbian acts.⁷⁰

Myanmar/Burma

Male/Male Illegal

Female/Female Legal

Penal Code, Act 45/1860, Revised Edition ⁷¹

Section 377

“Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animals shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to 10 years, and shall be liable to fine.”

Oman

Male/Male Illegal

Female/Female Illegal

Omani Penal Code of 1974 ⁷²

Article 33

“The following are deemed as disgracing crimes:

I. All felonies punishable by a coercive sentence.

II. All misdemeanours stated hereafter:

1.Bribery; 2.Embezzlement; 3.False testimony; 4.Perjury; 5.Forgery and use, with knowledge, of forged items; 6.Incitement to prostitution; 7.Homosexual and lesbian intercourses; 8.Drug trafficking; 9.Theft; 10.Rape and assault; 11.Fraud; 12.Flash Cheque; 13.Breach of trust; 14.Counterfeit; 15.Trespass.”

Homosexual and Lesbian Intercourses

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.”

Pakistan

Male/Male Illegal

Female/Female Legal

Penal Code (Act XLV of 1860) ⁷³

Section 377 'Unnatural offences'

"Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which shall not be less than two years nor more than ten years, and shall also be liable to a fine."

Qatar

Male/Male Illegal

Female/Female Illegal

The Penal Code (Act No. 11 of 2004) ⁷⁴

Sexual acts with a female over the age of 16 are prohibited by article 281, while sexual acts with a male are prohibited by article 284. The penalty is up to seven years imprisonment for both female and male acts.

Along with the civil Penal Code also Islamic Sharia law is in force in Qatar, although only applicable to Muslims. The offence of "Zina" makes any sexual act by a married person outside of marriage punishable by death, while sexual acts by non-married persons are punished by flogging – both offences no matter if they were heterosexual or homosexual.⁷⁵

Saudi-Arabia

Male/Male Illegal

Female/Female Illegal

There is no codified Penal Law in Saudi-Arabia. Instead, the country applies strict Islamic Sharia law. According to the interpretation sodomy is criminalised. For a married man the penalty is death by stoning, while the penalty for an unmarried man is 100 blows of the whip as well as banishment for a year. For a non-Muslim, who commits sodomy with a Muslim, the penalty is death by stoning. Moreover are all sexual relations outside of marriage illegal in Saudi-Arabia according to the Sharia law, including sexual relations between women.⁷⁶

Singapore

Male/Male Illegal

Female/Female Legal

Penal Code (Chapter 22), Revised Edition 2007 ⁷⁷

Outrages on decency.

Section 377A. "Any male person who, in public or private, commits, or abets the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be punished with imprisonment for a term which may extend to 2 years."

Section 377 criminalising "carnal knowledge against the order of nature" has been repealed by the Penal Code (Amendment) Act 2007, No. 51, which came into force on 1 February 2008.

Sri Lanka

Male/Male Illegal

Female/Female Illegal

Penal Code of 1883 No 2 (Cap. 19) ⁷⁸

Article 365 – “Voluntarily carnal intercourse with man, woman or animal against the order of nature - imprisonment for a term which may extend ten years.”

Article 365A (as introduced by the “Penal Code (Amendment) Act, No. 22 of 1995”)⁷⁹

“Any person who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any person of any act of gross indecency with another person, shall be guilty of an offence and shall be punished with imprisonment of either description for a term which may extend to two years or with a fine, or with both and where the offence is committed by a person over eighteen (18) years of age in respect of any person under sixteen (16) years of age shall be punished with rigorous imprisonment for a term not less than 10 years and not exceeding 20 years and with a fine and shall also be ordered to pay compensation of amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such a person.”

Syria

Male/Male Illegal

Female/Female Illegal

Penal Code of 1949 ⁸⁰

Article 520. “Any unnatural sexual intercourse shall be punished with a term of imprisonment of up to three years.”

Turkmenistan

Male/Male Illegal

Female/Female Legal

Criminal Code of 1997 (Effective January 1, 1998) ⁸¹

Article 135. Sodomy

“(1) Sodomy, that is the sexual relations of the man with the man, is punished by imprisonment for the term of up to two years.”

(Unofficial translation)

United Arab Emirates

Male/Male Illegal

Female/Female Illegal

All sexual acts outside of heterosexual marriage are banned in the United Arab Emirates.⁸² However, whether sodomy is punished with death penalty remains in dispute. The Arabic text of article 354 is ambiguously phrased and can be translated in different ways. Some sources indicate that the article punishes rape of a woman or forced sodomy with a man, while others indicate that it punishes rape on women and sodomy between men.

The semi-official translation used by attorneys in the Emirates states that “any individual who forcibly compels a woman to carnal copulation or a man to sodomy” is punished by death.⁸³ In a German parliamentary report the article has been translated as follows: “Irrespective of the provisions of the Act on Delinquent and

Vagrant Juveniles, any person who forcibly engages in sexual intercourse with a woman, or a homosexual act with a homosexual, shall be punished with the death penalty. Coercion shall be recognised if the condemned person was fourteen years of age at the time of the commission of the offence."⁸⁴ Sofer, on the other hand, means that the article can be translated differently; "Whoever commits rape on a female or sodomy with a male".⁸⁵ Amnesty International, finally, considers article 354 to apply to rape only, and not to consensual same-sex acts. However, the organization states that the "Zina" provision according to Sharia law, punishing sexual acts by married persons outside of marriage by death, could possibly apply in the UAE, although it is not aware of any such death sentences for consensual same-sex conduct.⁸⁶

Apart from federal law, consensual sodomy is criminalised in the emirates of Dubai and Abu Dhabi. Article 80 of the Dubai Penal Code punishes sodomy with a penalty of up to 14 years imprisonment, while article 177 of the Abu Dhabi Penal Code punishes such acts with a penalty of up to ten years imprisonment.⁸⁷

Uzbekistan

Male/Male Illegal

Female/Female Legal

Criminal Code of 1994 ⁸⁸

Article 120. Besoqolbozlik* (Homosexual Intercourse)

"Besoqolbozlik, that is, voluntary sexual intercourse of two male individuals – shall be punished with imprisonment up to three years."

Yemen

Male/Male Illegal

Female/Female Illegal

Penal Code 1994 ⁸⁹

Article 264. "Homosexuality between men is defined as penetration into the anus. Unmarried men shall be punished with 100 lashes of the whip or a maximum of one year of imprisonment, married men with death by stoning."

Article 268. "Homosexuality between women is defined as sexual stimulation by rubbing. The penalty for premeditated commission shall be up to three years of imprisonment; where the offence has been committed under duress, the perpetrator shall be punishable with up to seven years detention."

EUROPE

Turkish Republic of Northern Cyprus (unrecognised state)

Male/Male Illegal

Female/Female Legal

Criminal Code, Chapter 154 ⁹⁰

Article 171. "Whoever –

(a) has sexual intercourse against the order of nature with any person, or

(b) allows sexual intercourse against the order of nature with a male, commits a heavy crime and is punished with up to five years imprisonment."

Article 173. "Whoever attempts to commit one of the crimes mentioned above in art. 171, commits a heavy crime and is punished with up to three years imprisonment."

There are plans to repeal these articles, but such a reform has not occurred as of publication of this report.

LATIN AMERICA AND THE CARIBBEAN

In August 2007, the MERCOSUR Meeting of High-Level Human Rights Authorities held in Montevideo, Uruguay released a Statement on the pressing need to create clear policy to eradicate discrimination on the basis of sexual orientation and gender identity/expression in member and associated states. The statement refers to the need to "generate laws which guarantee LGBT people and their families the same rights and protection States recognize for heterosexual families, by creating legal institutions such as common-law marriage, cohabitation, civil unions, or equal access to marriage for same-sex couples" [*unofficial translation*].

In June 2008, the Organization of American States (OAS), passed the resolution "Human Rights, Sexual Orientation and Gender Identity" AG /RES-2435(XXXVIII-O/08) by consensus. For the first time, a document agreed upon by the 34 countries of the Americas contained the words "sexual orientation" and "gender identity". The resolution recognizes the serious human rights violations faced by people due to their sexual orientation and gender identity. This document, unprecedented in the Region, arose from a consensus which included English-speaking Caribbean countries whose legislation still criminalizes sexual relations between adults of the same sex. The Resolution highlights the importance of the adoption of the Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity. It also reaffirms the fundamental principles of non-discrimination in international law. States also agreed to organize a special session "to discuss the application of the principles and standards" of the Inter-American System to sexual orientation and gender identity-related abuses.

In December 2008, a powerful victory was won for the principles of the Universal Declaration of Human Rights when 66 countries from all of the continents endorsed a Declaration confirming that international human rights include sexual orientation and gender identity. ILGA (International Lesbian, Gay, Bisexual, Trans, and Intersex Association) was among the delegation of activists who came from all over the world to lend support to the statement, demonstrate against the criminalization of homosexuality and denounce human rights violations based on sexual orientation and gender identity which occur regularly in all corners of the globe.

The Declaration, presented and read by Argentina, emphasizes that “everyone is entitled to the enjoyment of human rights without distinction of any kind”, and highlights that “the principle of non-discrimination requires that human rights apply equally to every human being regardless of sexual orientation or gender identity”. It states that “violence, harassment, discrimination, exclusion, stigmatization and prejudice are directed against persons in all countries of the world due to their sexual orientation or gender identity”.

In May 2009, the UN Committee on Economic, Social and Cultural Rights passed a General Comment on Non-Discrimination. Treaty bodies such as the Committee have the mandate to monitor compliance of states with their international obligations under international treaties such as, in this case, the International Covenant on Economic, Social and Cultural Rights. General Comments on the Committee's interpretation of the Covenant's provisions, reflect the grounds on which discrimination is prohibited and the scope of state obligations. The General Comment E/C.12/GC/20 on discrimination affirms, among other things that:

(1) any “other status” as recognized in article 2(2) of the Covenant includes sexual orientation. This is a simple, strong and clear statement that legal principle of non-discrimination contained in the International Covenant of Economic, Social, and Cultural Rights prohibits discrimination on the basis of sexual orientation. The General Comment continues “States parties should ensure that a person’s sexual orientation is not a barrier to realising Covenant rights, for example, in accessing or continuing employment.” ;

(2) gender identity is also recognized as a prohibited basis for discrimination, by stating: “gender identity is recognized as among the prohibited grounds of discrimination; for example, persons who are transgender, transsexual or intersex often face serious human rights violations, such as harassment in schools or in the workplace.”;

(3) recognition of the Yogyakarta Principle by way of the the General Comment referring to the definitions of “sexual orientation” and “gender identity” contained therein. This was the first explicit recognition of Yogyakarta Principles by a UN Treaty Body.

(4) the principles of multiple and systemic discrimination, thus recognizing that we are entitled to protection from direct and indirect discrimination based on any and all aspects of our identity.

In June 2009, in the Fourth Plenary Session of the OAS, the resolution AG/RES. 2504 (XXXIX-O/09) “Human Rights, Sexual Orientation, and Gender Identity” was adopted. This text ratified what was already established in Resolution AG/RES.2435 (XXX VII I-O/08) and refers to the Declaration on Sexual Orientation and Gender Identity presented in the United Nations General Assembly on December 18th, 2008. The resolution not only condemns acts of violence and human rights violations perpetrated against individuals based on their sexual orientation or gender identity, but also expresses concern over violence committed against human rights advocates who work to combat these violations, and urges States to ensure their protection and for the Inter-American Human Rights Commission and the Inter-American System to undertake action to address the problem. Finally, it reiterates the request from the Committee on Juridical and Political Affairs to include “sexual orientation and gender identity” on the agenda of the next ordinary period of sessions.

As this overview shows, numerous and significant changes and progress are being made in the recognition of the right to non-discrimination and equality for LGBTI persons in Latin America and the Caribbean, as in other parts of the world, which were unimaginable a few years ago. In most cases, however, an institutional structure is lacking to give form to these ambitions. Non-recognition of our fundamental rights denies us access to basic protection, benefits and rights and obviously puts us in a situation inferior to that of heterosexual persons, as well as seriously depriving us of moral and material security.

Full recognition of our right to access an important set of rights and protections has a huge impact on our relationships, lives and safety, and thus, cannot be limited based on our sexual orientation, gender identity or their expressions.

The principles of “equality” and “non-discrimination” were recognized and laid down in international human rights treaties. All express the commitment from States to equal citizenship of its inhabitants, the abolition of any and all caste systems, and the rejection of second-class, limited or less valid forms of citizenship. International Conventions alert that certain criteria for distinction (regardless of how objective they may be,

such as race or sexual orientation) are illegitimate grounds to justify different treatment in the enjoyment or recognition of rights. On the other hand, arbitrary and prejudicial criteria create inferiority, thus contradicting the principle of equal dignity for all human beings.

Sexual orientation, gender identity and their expressions are among those categories mentioned in the Conventions, whose enforcement mechanisms have clearly stated that sexual orientation is “undoubtedly” protected under the principle of non-discrimination. Just as a State cannot limit the right to health to members of a particular race or religion, it can also not do so for members of a particular sexual orientation, gender identity or sex.

A democratic society aspiring to equality cannot penalize (by denying a right) to a group because it differs from traditional paradigms. Equality means respect for difference above all else; this is what gives life to the principle itself. One of the challenges LGBTI people face in realizing these principles in our lives, is achieving clear, social and legal effects as well as respect for sexual and gender diversity without attempting to change or manipulate our bodies, desires or emotions.

The lack of political will to push for new laws to guarantee full citizenship, the refusal to repeal repressive laws and align with new paradigms driving the achievement of universality in Human Rights, the homophobia of the Church, conservative fundamentalism, the lack of public debate and policy, pathologizing viewpoints, criminalization of sexual orientation and gender identity, legitimated punitive practices, non-existence of non-discrimination laws, hate crimes and speech, physical and psychological violence, death, bullying, among other phenomena, are the axes which reproduce lesbophobia, transphobia, homophobia and bi-phobia, which limit and condition the impacts of our fight for freedom and equality in Latin America and the Caribbean.

**Amaranta Gómez Regalado
Toli Hernández Morales
Pedro Paradiso Sottile**

**ILGA LAC Board Members
Latin America and Caribbean representatives to the ILGA World Board**

Antigua and Barbuda

Male/Male Illegal

Female/Female Illegal

Sexual Offences Act of 1995 (Act No. 9) ⁹¹

Buggery

Article 12.

“(1) A person who commits buggery is guilty of an offence and is liable on conviction to imprisonment -

- (a) for life, if committed by an adult on a minor;
- (b) for fifteen years, if committed by an adult on another adult;
- (c) for five years, if committed by a minor.

(2) In this section "buggery" means sexual intercourse per anum by a male person with a male person or by a male person with a female person.”

Serious indecency

Article 15. “(1) A person who commits an act of serious indecency on or towards another is guilty of an offence and is liable on conviction to imprisonment -

- (a) for ten years, if committed on or towards a minor under sixteen years of age;
 - (b) for five years, if committed on or towards a person sixteen years of age or more,
- (2) Subsection (1) does not apply to an act of serious indecency committed in private between -

- (a) a husband and his wife; or
 - (b) a male person and a female person each of whom is sixteen years of age or more;
- (3) An act of "serious indecency" is an act, other than sexual intercourse (whether natural or unnatural), by a person involving the use of genital organ for the purpose of arousing or gratifying sexual desire.”

Barbados

Male/Male Illegal

Female/Female Illegal

Sexual Offences Act 1992, Chapter 154 ⁹²

Buggery

Section 9. “Any person who commits buggery is guilty of an offence and is liable on conviction on indictment to imprisonment for life.”

Serious indecency

Section 12. “(1) A person who commits an act of serious indecency on or towards another or incites another to commit that act with the person or with another person is guilty of an offence and, if committed on or towards a person 16 years of age or more or if the person incited is of 16 years of age or more, is liable on conviction to imprisonment for a term of 10 years.

(2) A person who commits an act of serious indecency with or towards a child under the age of 16 or incites the child under that age to such an act with him or another, is guilty of an offence and is liable on conviction to imprisonment for a term of 15 years.

(3) An act of “serious indecency” is an act, whether natural or unnatural by a person involving the use of the genital organs for the purpose of arousing or gratifying sexual desire.”

Belize

Male/Male Illegal

Female/Female Legal

Criminal Code [CAP. 101] (REVISED EDITION 2003) ⁹³

Unnatural Crime

Section 53.

"Every person who has carnal intercourse against the order of nature with any person or animal shall be liable to imprisonment for ten years."

Dominica

Male/Male Illegal

Female/Female Illegal

Sexual Offences Act 1998 ⁹⁴

Section 14. Gross Indecency

"(1) Any person who commits an act of gross indecency with another person is guilty of an offence and liable on conviction to imprisonment for five years.

(2) Subsection (1) does not apply to an act of gross indecency committed in private between an adult male person and an adult female person, both of whom consent.

(3) For the purposes of subsection (2) –

(a) an act shall be deemed not to have been committed in private if it is committed in a public place; and

(b) a person shall be deemed not to consent to the commission of such an act if –

(i) the consent is extorted by force, threats or fear of bodily harm or is obtained by false and fraudulent representations as to the nature of the act;

(ii) the consent is induced by the application or administration of any drug, matter or thing with intent to intoxicate or stupefy the person; or

(iii) that person is, and the other party to the act knows or has good reason to believe that the person is suffering from a mental disorder.

(4) In this section "gross indecency" is an act other than sexual intercourse (whether natural or unnatural) by a person involving the use of genital organs for the purpose of arousing or gratifying sexual desire."

Section 16 Buggery

"(1) A person who commits buggery is guilty of an offence and liable on conviction to imprisonment for –

(a) twenty-five years, if committed by an adult on a minor;

(b) ten years, if committed by an adult on another adult; or

(c) five years, if committed by a minor;

and, if the Court thinks it fit, the Court may order that the convicted person be admitted to a psychiatric hospital for treatment.

(2) Any person who attempts to commit the offence of buggery, or is guilty of an assault with the intent to commit the same is guilty of an offence and liable to imprisonment for four years and, if the Court thinks it fit, the Court may order that the convicted person be admitted to the psychiatric hospital for treatment.

(3) In this section "buggery" means sexual intercourse per anum by a male person with a male person or by a male person with a female person."

Grenada

Male/Male Illegal

Female/Female Legal

Criminal Code as amended to 1990 ⁹⁵

Article 435. "If any two persons are guilty of unnatural connexion [sic], or if any person is guilty of an unnatural connexion with an animal, every such person shall be liable to imprisonment for ten years".

Guyana

Male/Male Illegal

Female/Female Legal

Criminal Law (Offences) Act ⁹⁶

Section 352 - Committing acts of gross indecency with male person:

"Any male person, who in public or private, commits, or is a party to the commission, or procures or attempts to procure the commission, by any male person, of an act of gross indecency with any other male person shall be guilty of misdemeanour and liable to imprisonment for two years."

Section 353 - Attempt to commit unnatural offences:

"Everyone who -

(a) attempts to commit buggery; or

(b) assaults any person with the intention to commit buggery; or

(c) being a male, indecently assaults any other male person,

shall be guilty of felony and liable to imprisonment for ten years."

Section 354 – Buggery:

"Everyone who commits buggery, either with a human being or with any other living creature, shall be guilty of felony and be liable to imprisonment for life."

Jamaica

Male/Male Illegal

Female/Female Legal

The Offences Against the Person Act ⁹⁷

Article 76 (Unnatural Crime)

"Whosoever shall be convicted of the abominable crime of buggery [anal intercourse] committed either with mankind or with any animal, shall be liable to be imprisoned and kept to hard labour for a term not exceeding ten years."

Article 77 (Attempt)

"Whosoever shall attempt to commit the said abominable crime, or shall be guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for a term not exceeding seven years, with or without hard labour."

Article 78 (Proof of Carnal Knowledge)

"Whenever upon the trial of any offence punishable under this Act, it may be necessary to prove carnal knowledge, it shall not be necessary to prove the actual emission of seed in order to constitute a carnal knowledge, but the carnal knowledge shall be deemed complete upon proof of penetration only."

Article 79 (Outrages on Decency)

"Any male person who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be guilty of a misdemeanor, and being convicted thereof shall be liable at the discretion of the court to be imprisoned for a term not exceeding 2 years, with or without hard labour."

Saint Kitts and Nevis

Male/Male Illegal

Female/Female Legal

Offences against the Person Act ^{98 99}

Section 56

"The abominable crime of buggery" - up to 10 years imprisonment, with or without hard labour.

Section 57

"Whosoever attempts to commit the said abominable crime, or is guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, is guilty of misdemeanour, and being convicted thereof shall be liable to be imprisoned for any term not exceeding four (4) years with or without hard labour."

Saint Lucia

Male/Male Illegal

Female/Female Illegal

Criminal Code, No. 9 of 2004 (Effective January 1, 2005) ¹⁰⁰

Gross Indecency

Section 132.— "(1) Any person who commits an act of gross indecency with another person commits an offence and is liable on conviction on indictment to imprisonment for ten years or on summary conviction to five years.

(2) Subsection (1) does not apply to an act of gross indecency committed in private between an adult male person and an adult female person, both of whom consent.

(3) For the purposes of subsection (2) —

(a) an act shall be deemed not to have been committed in private if it is committed in a public place; and
(b) a person shall be deemed not to consent to the commission of such an act if —

(i) the consent is extorted by force, threats or fear of bodily harm or is obtained by false and fraudulent representations as to the nature of the act;

(ii) the consent is induced by the application or administration of any drug, matter or thing with intent to intoxicate or stupefy the person; or

(iii) that person is, and the other party to the act knows or has good reason to believe that the person is suffering from a mental disorder.

(4) In this section "gross indecency" is an act other than sexual intercourse (whether natural or unnatural) by a person involving the use of the genital organs for the purpose of arousing or gratifying sexual desire."

Buggery

Section 133.— "(1) A person who commits buggery commits an offence and is liable on conviction on indictment to imprisonment for —

(a) life, if committed with force and without the consent of the other person;

(b) ten years, in any other case.

(2) Any person who attempts to commit buggery, or commits an assault with intent to commit buggery, commits an offence and is liable to imprisonment for five years.

(3) In this section "buggery" means sexual intercourse per anus by a male person with another male person."

Saint Vincent and the Grenadines

Male/Male Illegal

Female/Female Illegal

Criminal Code, 1990 Edition ¹⁰¹

Section 146

"Any person who —

- (a) commits buggery with any other person;
 - (b) commits buggery with an animal; or
 - (c) permits any person to commit buggery with him or her;
- is guilty of an offence and liable to imprisonment for ten years."

Section 148

"Any person, who in public or private, commits an act of gross indecency with another person of the same sex, or procures or attempts to procure another person of the same sex to commit an act of gross indecency with him or her, is guilty of an offence and liable to imprisonment for five years."

Trinidad and Tobago

Male/Male Illegal

Female/Female Illegal

Sexual Offences Act 1986, Consolidated Version 2000 ¹⁰²

Section 13. "(1) A person who commits buggery is guilty of an offence and is liable on conviction to imprisonment—

- (a) if committed by an adult on a minor, for life;
 - (b) if committed by an adult on another adult, for twenty-five years;
 - (c) if committed by a minor, for five years.
- (2) In this section "buggery" means sexual inter-course per anum by a male person with a male person or by a male person with a female person."

Section 16. "(1) A person who commits an act of serious indecency on or towards another is guilty of an offence and is liable on conviction to imprisonment—

- (a) if committed on or towards a minor under sixteen years of age for ten years for a first offence and to imprisonment for fifteen years for a subsequent offence;
 - (b) if committed on or towards a person sixteen years of age or more for five years.
- (2) Subsection (1) does not apply to an act of serious indecency committed in private between—
- (a) a husband and his wife; or
 - (b) a male person and a female person each of whom is sixteen years of age or more, both of whom consent to the commission of the act.
- (3) An act of "serious indecency" is an act, other than sexual intercourse (whether natural or unnatural), by a person involving the use of the genital organ for the purpose of arousing or gratifying sexual desire."

OCEANIA

Cook Islands (New Zealand associate)

Male/Male Illegal

Female/Female Legal

Crimes Act 1969 ¹⁰³

Section 154. Indecency between males –

“(1) Every one is liable to imprisonment for a term not exceeding five years who, bring a male,-

(a) Indecently assaults any other male; or

(b) Does any indecent act with or upon any other male; or

(c) Induces or permits any other male to do any indecent act with or upon him.

(2) No boy under the age of fifteen years shall be charged with committing or being a party to an offence against paragraph

(b) or paragraph (c) of subsection (1) of this section, unless the other male was under the age of twenty-one years.

(3) It is not defence to a charge under this section that the other party consented.”

Section 155. Sodomy –

“(1) Every one who commits sodomy is liable-

(a) Where the act of sodomy is committed on a female, to imprisonment for a term not exceeding fourteen years;

(b) Where the act of sodomy is committed on a male, and at the time of the act that male is under the age of fifteen years and the offender is of over the age of twenty-one years, to imprisonment for a term not exceeding fourteen years;

(c) In any other case, to imprisonment for a term not exceeding seven years.

(2) This offence is complete upon penetration.

(3) Where sodomy is committed on any person under the age of fifteen years he shall not be charged with being a party to that offence, but he may be charged with being a party to an offence against section 154 of this Act in say case to which that section is applicable.

(4) It is no defence to a charge under this section that the other party consented.”

Note that Cook Islands is a New Zealand associate, and that the laws in Cook Islands are only applicable to the islands, and not to New Zealand!

Kiribati

Male/Male Illegal

Female/Female Legal

Penal Code [Cap 67] Revised Edition 1977 ¹⁰⁴

Unnatural Offences

Section 153. “Any person who-

(a) commits buggery with another person or with an animal; or

(b) permits a male person to commit buggery with him or her,

shall be guilty of a felony, and shall be liable to imprisonment for 14 years.”

Attempts to commit unnatural offences and indecent assaults

Section 154. "Any person who attempts to commit any of the offences it specified in the last preceding section, or who is guilty of any assault with intent to commit the same, or any indecent assault upon any male person shall be guilty of a felony, and shall be liable to imprisonment for 7 years."

Indecent practices between males

Section 155. "Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, shall be guilty of a felony, and shall be liable to imprisonment for 5 years."

Nauru

Male/Male Illegal

Female/Female Legal

Criminal Code of Queensland in its application to Nauru on 1 July 1921 ^{105 106}

Section 208. Unnatural Offences

"Any person who:

- (1) Has carnal knowledge of any person against the order of nature; or
 - (2) Has carnal knowledge of an animal; or
 - (3) Permits a male person to have carnal knowledge of him or her against the order of nature;
- is guilty of a crime, and is liable to imprisonment with hard labour for fourteen years"

Section 209. Attempt to commit Unnatural Offences

"Any person who attempts to commit any of the crimes defined in the last preceding section is guilty of a crime, and is liable to imprisonment with hard labour for seven years. The offender cannot be arrested without warrant."

Section 211. Indecent Practices between Males

"Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for three years."

Palau

Male/Male Illegal

Female/Female Legal

Palau National Code; Penal Code ¹⁰⁷

§ 2803. Sodomy.

"Every person who shall unlawfully and voluntarily have any sexual relations of an unnatural manner with a member of the same or the other sex, or shall have any carnal connection in any manner with a beast, shall be guilty of sodomy, and upon conviction thereof be imprisoned for a period of not more than 10 years; provided, that the term "sodomy" shall embrace any and all parts of the sometimes written "abominable and detestable crime against nature"".

Papua New Guinea

Male/Male Illegal

Female/Female Legal

Criminal Code 1974, as amended in 2002 ¹⁰⁸

Section 210. UNNATURAL OFFENCES.

“(1) A person who–

- (a) sexually penetrates any person against the order of nature; or
- (b) sexually penetrates an animal; or
- (c) permits a male person to sexually penetrate him or her against the order of nature, is guilty of a crime.

Penalty: Imprisonment for a term not exceeding 14 years.

(2) A person who attempts to commit an offence against Subsection (1) is guilty of a crime.

Penalty: imprisonment for a term not exceeding seven years.”

Section 212. INDECENT PRACTICES BETWEEN MALES.

“(1) A male person who, whether in public or private–

- (a) commits an act of gross indecency with another male person; or
- (b) procures another male person to commit an act of gross indecency with him; or
- (c) attempts to procure the commission of any such act by a male person with himself or with another male person, is guilty of a misdemeanour.

Penalty: Imprisonment for a term not exceeding three years.”

Samoa

Male/Male Illegal

Female/Female Legal

Crimes Ordinance 1961, Consolidated Acts of Samoa 2007-2008 ¹⁰⁹

Section 58D. Indecency between males –

“(1) Everyone is liable to imprisonment for a term not exceeding 5 years who, being a male:

- (a) Indecently assaults any other male; or
- (b) Does any indecent act with or upon any other male; or
- (c) Induces or permits any other male to do any indecent act with or upon him.

(2) No boy under the age of 16 years shall be charged with committing or being a party to an offence against paragraph (b) or paragraph (c) of subsection (1), unless the other male was under the age of 21 years.

(3) It is no defence to a charge under this section that the other party consented.”

Section 58E. Sodomy –

“(1) Everyone who commits sodomy is liable:

- (a) Where the act of sodomy is committed on a female, to imprisonment for a term not exceeding 7 years.
- (b) Where the act of sodomy is committed on a male, and at the time of the act that male is under the age of 16 years and the offender is of or over the age of 21 years, to imprisonment for a term not exceeding 7 years.
- (c) In any other case, to imprisonment for a term not exceeding 5 years.

(2) This offence is complete upon penetration.

(3) Where sodomy is committed on any person under the age of 16 years he shall not be charged with being a party to that offence, but he may be charged with being a party to an offence against section 58D of this Act in any case to which that section is applicable.

(4) It is no defence to a charge under this section that the other party consented.”

Solomon Islands

Male/Male Illegal

Female/Female Illegal

Penal Code (Revised Edition 1996) ¹¹⁰

Section 160. Unnatural offences

"Any person who-

(a) commits buggery with another person or with an animal; or

(b) permits a male person to commit buggery with him or her, shall be guilty of a felony, and shall be liable to imprisonment for fourteen years."

Section 161. Attempts to commit unnatural offences

"Any person who attempts to commit any of the offences specified in the last preceding section, or who is guilty of any assault with intent to commit the same, or any indecent assault upon any male person shall be guilty of a felony, and shall be liable to imprisonment for seven years."

Section 162. Indecent practices between persons of the same sex (Inserted by Act 9 of 1990, s. 2)

"Any person who, whether in public or private -

(a) commits any act of gross indecency with another of the same sex;

(b) procures another of the same sex to commit any act of gross indecency; or

(c) attempts to procure the commission of any act of gross indecency by persons of the same sex, shall be guilty of a felony and be liable to imprisonment for five years."

Tonga

Male/Male Illegal

Female/Female Legal

Laws of Tonga, Criminal Offences [Cap 18] 1988 Edition ¹¹¹

Sodomy and bestiality.

Section 136. "Whoever shall be convicted of the crime of sodomy with another person or bestiality with any animal shall be liable at the discretion of the Court to be imprisoned for any period not exceeding ten years and such animal shall be killed by a public officer." (Substituted by Act 9 of 1987.)

Attempted sodomy, indecent assault upon a male.

Section 139. "Whoever shall attempt to commit the said abominable crime of sodomy or shall be guilty of an assault with intent to commit the same or of any indecent assault upon any male person shall be liable at the direction of the Court to imprisonment for any term not exceeding 10 years."

Evidence.

Section 140. "On the trial of any person upon a charge of sodomy or carnal knowledge it shall not be necessary to prove the actual emission of seed but the offence shall be deemed complete on proof of penetration only."

Whipping for certain offences.

Section 142. "Whenever any male person shall be convicted of any offence against sections 106, 107, 115, 118, 121, 122, 125, 132, 136 and 139 of this Act the Court may, in its discretion in lieu of or in addition to any sentence of imprisonment authorised under this Act order the person so convicted to be whipped in accordance with the provisions of section 31 of this Act." (Substituted by Act 9 of 1987.)

Tuvalu

Male/Male Illegal

Female/Female Legal

Laws of Tuvalu, Penal Code [Cap 8] Revised Edition 1978 ¹¹²

Unnatural offences

Section 153. "Any person who-

(a) commits buggery with another person or with an animal; or

(b) permits a male person to commit buggery with him or her,

shall be guilty of a felony, and shall be liable to imprisonment for 14 years."

Attempts to commit unnatural offences and indecent assault

Section 154. "Any person who attempts to commit any of the offences specified in the last proceeding section, or who is guilty of any assault with intent to commit the same, or any indecent assault upon any male person shall be guilty of a felony, and shall be liable to imprisonment for 7 years."

Indecent practices between males

Section 155. "Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, shall be guilty of a felony, and shall be liable to imprisonment for 5 years."

LGBTI rights global overview

The year in brackets refers to the year when the reform came into force. If no year is stated, either there has never been any regulation in the relevant area or is the information unknown.

Homosexual acts legal (115 countries)

Africa	Benin, Burkina Faso, Cape Verde (2004), Central African Republic, Chad, Congo-Brazzaville, Côte d'Ivoire, Democratic Republic of Congo, Equatorial Guinea (1931), Gabon, Guinea-Bissau (1993), Madagascar, Mali, Niger, Rwanda, South Africa (1998)
Asia	Cambodia, China (1997), ¹¹³ East Timor (1975), India (2009), ¹¹⁴ Indonesia, Israel (1988), Japan (1882), Jordan (1951), Kazakhstan (1998), Kyrgyzstan (1998), Laos, Mongolia (1987), Nepal (2007), North Korea, Philippines, South Korea, Taiwan (1896), Tajikistan (1998), Thailand (1957), Turkey (1858), Vietnam, as well as the West Bank (1951) in the Palestinian Authority
Europe	Albania (1995), Andorra, Armenia (2003), Austria (1971), Azerbaijan (2000), Belgium (1795), Bosnia and Herzegovina (1998), ¹¹⁵ Bulgaria (1968), Croatia (1977), Cyprus (1998), Czech Republic (1962), Denmark (1933), Estonia (1992), Finland (1971), France (1791), Georgia (2000), Germany (1968-69), ¹¹⁶ Greece (1951), Hungary (1962), Iceland (1940), Ireland (1993), Italy (1890), Kosovo (1994), Latvia (1992), Liechtenstein (1989), Lithuania (1993), Luxembourg (1795), Macedonia (1996), Malta (1973), Moldova (1995), Monaco (1793), Montenegro (1977), Netherlands (1811), ¹¹⁷ Norway (1972), Poland (1932), Portugal (1983), Romania (1996), Russia (1993), San Marino (1865), Serbia (1994), Slovakia (1962), Slovenia (1977), Spain (1979), Sweden (1944), Switzerland (1942), Ukraine (1991), United Kingdom (see foot note for the UK and associates), ¹¹⁸ Vatican City
Latin America and Caribbean	Argentina (1887), Bahamas (1991), Bolivia, Brazil (1831), Costa Rica (1971), Chile (1999), Colombia (1981), Cuba (1979), Dominican Republic, Ecuador (1997), El Salvador, Guatemala, Haiti, Honduras (1899), Mexico (1872), Nicaragua (2008), Panama (2008), ¹¹⁹ Paraguay (1880), Peru (1836-37), Suriname (1869), Uruguay (1934), Venezuela as well as the Dutch associates Aruba and the Netherlands Antilles
North America	Canada (1969) and the United States (2003, for individual states see foot note), ¹²⁰
Oceania	Australia, ¹²¹ Fiji (2010), ¹²² Marshall Islands (2005), Micronesia, New Zealand (1986), Vanuatu and the New Zealand associates of Niue (2007) and Tokelau (2007)

Note that same-sex activities never have been criminalised in Benin, Burkina Faso, Central African Republic, Chad, Congo-Brazzaville, Côte d'Ivoire, Democratic Republic of Congo, Gabon, Madagascar, Mali, Niger and Rwanda.

Homosexual acts illegal (76 countries)

Africa	Algeria, Angola, Botswana, Burundi, Cameroon, Comoros, Egypt, ¹²³ Eritrea, Ethiopia, Gambia, Ghana, Guinea, Kenya, Lesotho, Liberia, Libya, Malawi, Mauritania (death penalty), Mauritius, Morocco, Mozambique, Namibia, Nigeria (death penalty in some states), São Tomé and Príncipe, Senegal, Seychelles, Sierra Leone, Somalia, Sudan (death penalty), Swaziland, Tanzania, Togo, Tunisia, Uganda, Zambia, Zimbabwe
Asia	Afghanistan, Bangladesh, Bhutan, Brunei, Burma, Iran (death penalty), Kuwait, Lebanon, Malaysia, Maldives, Oman, Pakistan, Qatar, Saudi Arabia (death penalty), Singapore, Sri Lanka, Syria, Turkmenistan, United Arab Emirates, Uzbekistan, Yemen (death penalty), as well as the Gaza Strip in the Palestinian Authority
Europe	Turkish Republic of Northern Cyprus (internationally unrecognised)
Latin America and the Caribbean	Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St Kitts & Nevis, St Lucia, St Vincent & the Grenadines, Trinidad and Tobago
North America	None
Oceania	Kiribati, Nauru, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, as well as the New Zealand associate of Cook Islands

Legal status of homosexual acts unclear (3 countries)

Africa	Djibouti
Asia	Bahrain, Iraq (see Iraq section above)
Europe	None
Latin America and the Caribbean	None
North America	None
Oceania	None

Homosexual acts punishable with death penalty (5 countries and some parts of Nigeria and Somalia)

Africa	Mauritania, Sudan as well as 12 northern states in Nigeria and the southern parts of Somalia
Asia	Iran, Saudi Arabia, Yemen
Europe	None
Latin America and the Caribbean	None
North America	None
Oceania	None

Equal age of consent for homosexual and heterosexual acts (99 countries)

Africa	Burkina Faso (1996), Cape Verde (2004), Democratic Republic of Congo, Equatorial Guinea (1931), Mali (1961), Guinea-Bissau (1993), South Africa (2007)
Asia	Cambodia, China, ¹²⁴ East Timor (2009), India (2009), Israel (2000), Japan (1882), Jordan (1951), Kazakhstan (1998), Kyrgyzstan (1998), Laos, Mongolia, Nepal (2007), North Korea, Philippines (1822), South Korea, Taiwan (1896), Tajikistan (1998), Thailand (1957), Turkey (1858), Vietnam, as well as the West Bank (1951) in the Palestinian Authority
Europe	Albania (2001), Andorra, Armenia (2003), Austria (2002), Azerbaijan (2000), Belgium (1985), Bosnia & Herzegovina (1998), Bulgaria (2002), Croatia (1998), Cyprus (2002), Czech Republic (1990), Denmark (1976), ¹²⁵ Estonia (2002), Finland (1999), France (1982, for associates see foot note), ¹²⁶ Georgia (2000), Germany (1994/89), ¹²⁷ Hungary (2002), Iceland (1992), Ireland (1993), Italy (1890), Kosovo (2004), Latvia (1999), Liechtenstein (2001), Lithuania (2003), Luxembourg (1992), Macedonia (1996), Malta (1973), Moldova (2003), Monaco (1793), Montenegro (1977), Netherlands (1971), ¹²⁸ Norway (1972), Poland (1932), Portugal (2007), Romania (2002), Russia (1997), San Marino (1865), Serbia (2006), Slovakia (1990), Slovenia (1977), Spain (1979), Sweden (1978), Switzerland (1992), Ukraine (1991), United Kingdom (2001, for associates see foot note), ¹²⁹ Vatican City
Latin America and the Caribbean	Argentina (1887), Bolivia, Brazil (1831), Colombia (1981), Costa Rica (1999), Cuba (1997), Dominican Republic, Ecuador (1997), El Salvador, Guatemala, Haiti, Honduras, Mexico (1872), Nicaragua (2008), Panama (31-jul-2008), Peru (1836-37), Uruguay (1934), Venezuela as well as the Dutch associates Aruba and the Netherlands Antilles
North America	United States
Oceania	Australia, ¹³⁰ Fiji (2010), Marshall Islands, Micronesia, New Zealand (1986), Vanuatu (2007) and the New Zealand associates of Niue (2007) and Tokelau (2007)

Un-equal age of consent for homosexual and heterosexual acts (15 countries)

Africa	Benin, Chad, Congo-Brazzaville, Côte d'Ivoire, Gabon, Madagascar, Niger, Rwanda
Asia	Indonesia
Europe	Greece (only in seduction cases), as well as some United Kingdom associates ¹³¹
Latin America and the Caribbean	Bahamas, Chile, Paraguay, Suriname as well as some United Kingdom associates, ¹³²
North America	Canada, and Nevada (only in seduction cases) in the United States
Oceania	The Australian state of Queensland

Prohibition of discrimination in employment based on sexual orientation (49 countries)

Africa	Mauritius (2008), Mozambique (2007), South Africa (1996) (Namibia repealed such a law in 2004)
Asia	Israel (1992), Taiwan (2007), as well as a few cities in Japan.
Europe	Albania (2010), Andorra (2005), Austria (2004), Belgium (2003), Bosnia and Herzegovina (2003), ¹³³ Bulgaria (2004), Croatia (2003), Cyprus (2004), Czech Republic (1999), Denmark (1996), ¹³⁴ Estonia (2004), Finland (1995), France (2001), Georgia (2006), Germany (2006), Greece (2005), Hungary (2004), Ireland (1999), Italy (2003), Kosovo (2004), Latvia (2006), Lithuania (2003), Luxembourg (1997), Malta (2004), Netherlands (1992), Norway (1998), Poland (2004), Portugal (2003), Romania (2000), Serbia (2005), Slovakia (2004), Slovenia (1998), Spain (1996), Sweden (1999), United Kingdom (2003, for associates see foot note) ¹³⁵
Latin America and the Caribbean	Colombia (2007), Costa Rica (1998), Mexico (2003), Nicaragua (2008), Venezuela (1999), as well as Rosario (1996) in Argentina, and some parts of Brazil ¹³⁶
North America	Canada (1996) as well as some parts of the United States ¹³⁷
Oceania	Australia, ¹³⁸ Fiji (2007), New Zealand (1994)

Prohibition of discrimination in employment based on gender identity

Africa	None
Asia	None
Europe	Croatia (2009), Hungary (2004), Serbia (2009), Sweden (1 Jan 2009). Moreover discrimination of transgender people is covered by the gender discrimination prohibitions in among others Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Italy, Latvia, Netherlands, Poland, Slovakia and United Kingdom.
Latin America and the Caribbean	The Argentinean city of Rosario (2006)
North America	Northwest Territories (2004) in Canada, as well as some parts of the United States ¹³⁹
Oceania	Australia ¹⁴⁰

Constitutional prohibition of discrimination based on sexual orientation (9 countries)

Africa	South Africa (1994 and 1997)
Asia	None
Europe	Kosovo (2008), Portugal (2004), Sweden (2003), Switzerland (2000), as well as some parts of Germany ¹⁴¹
Latin America and the Caribbean	Bolivia (2009), Colombia (2000), Ecuador (1998), ¹⁴² as well as some parts of Argentina ¹⁴³ and Brazil ¹⁴⁴
North America	Canada (1998) and the United Kingdom associate of British Virgin Islands (2007)

Oceania None (Fiji previous constitution, adopted in 1997, included such a provision. However, this constitution was repealed in 2009)

Hate crimes based on sexual orientation considered an aggravating circumstance (17 countries)

Africa None
Asia None
Europe Andorra (2005), Belgium (2003), Croatia (2006), Denmark (2004), France (2003),¹⁴⁵ Netherlands (1992), Portugal (2007), Romania (2006), Spain (1996), Sweden (2003), United Kingdom (2004-10)¹⁴⁶
Latin America and the Caribbean Colombia (2001), Nicaragua (2008) and Uruguay (2003)
North America Canada (1996) and United States (2009)¹⁴⁷
Oceania New Zealand (2002)

Hate crimes based on gender identity considered an aggravating circumstance (3 countries)

Africa None
Asia None
Europe United Kingdom (2004-10) ¹⁴⁸
Latin America and the Caribbean Uruguay (2003)¹⁴⁹
North America United States (2009) ¹⁵⁰
Oceania None

Incitement to hatred based on sexual orientation prohibited (20 countries)

Africa South Africa (2000)
Asia None
Europe Belgium (2003), Croatia (2003), Denmark (1987),¹⁵¹ Estonia (2006), France (2005),¹⁵² Iceland (1996), Ireland (1989), Lithuania (2003), Luxembourg (1997), Netherlands (1992), Norway (1981), Portugal (2007), Romania (2000), Serbia (2009), Spain (1996), Sweden (2003), United Kingdom (2004-10)¹⁵³
Latin America and the Caribbean Uruguay (2003)¹⁵⁴
North America Canada (2004)
Oceania Some parts of Australia¹⁵⁵

Marriage open for same-sex couples (7 countries)

Africa	South Africa (2006)
Asia	None
Europe	Belgium (2003), Netherlands (2001), Norway (2009), Spain (2005), Sweden (2009)
Latin America and the Caribbean	The Federal District (2010) in Mexico.
North America	Canada (2005), as well some parts of the United States ¹⁵⁶
Oceania	None

Same-sex couples offered most or all rights of marriage (Civil Partnerships, Registered Partnerships, Civil Unions etc.) (11 countries)

Africa	None
Asia	Israel (1994-)
Europe	Austria (2010), Denmark (1989) ¹⁵⁷ , Finland (2002), Germany (2001), Hungary (2009), Iceland (1996), Switzerland (2007), United Kingdom (2005)
Latin America and the Caribbean	Colombia (2007-2009)
North America	Some states in the United States ¹⁵⁸
Oceania	New Zealand (2005), as well as some parts of Australia ¹⁵⁹

Same-sex couples offered some rights of marriage (10 countries)

Africa	None
Asia	None
Europe	Andorra (2005), Croatia (2003), Czech Republic (2006), France (1999), ¹⁶⁰ Luxembourg (2004), Portugal (2001), Slovenia (2006)
Latin America and the Caribbean	Ecuador (2009), Uruguay (2008) as well as Buenos Aires (2003), Rio Negro (2003) and Villa Carlos Paz (2007) in Argentina, and Rio Grande do Sul (2004) in Brazil and the Mexican state of Coahuila (2007)
North America	Few states ¹⁶¹ and a number cities and towns in the United States
Oceania	Australia (2008-2009) ¹⁶²

Joint adoption by same-sex couples legal (10 countries)

Africa	South Africa (2002)
Asia	Israel (2008)
Europe	Andorra (2005), Belgium (2006), Denmark (1-July-2010), Iceland (2006), Netherlands

(2001), Norway (2009), Spain (2005), Sweden (2003), United Kingdom (2005-) ¹⁶³

- Latin America and the Caribbean** Some parts of Brazil and the Federal District (2010) in Mexico
- North America** Most of the Canadian provinces, ¹⁶⁴ and some parts of the United States ¹⁶⁵
- Oceania** Capital Territory (2004) and Western Australia (2002) in Australia

Moreover, second parent adoption, but not full adoption, by same-sex couples is also legal in Finland (2009) and Germany (2005), as well as Tasmania (2004) in Australia, and Alberta (1999) in Canada.

Law on Gender recognition after Gender Reassignment treatment (16 countries)

- Africa** South Africa (2004)
- Asia** Japan (2004), Turkey (1988)
- Europe** Belgium (2007), Finland (2003), Germany (1981), Italy (1982), Netherlands (1985), Romania (1996), Spain (2007), Sweden (1972), United Kingdom (2005)
- Latin America and the Caribbean** Panama (1975) and Uruguay (2009)
- North America** Most parts of Canada and the United States
- Oceania** Australia, ¹⁶⁶ New Zealand (1995)

Moreover, a number of other countries recognise the “new” gender as well as the right to marry after Gender Reassignment treatment through general statutes or case-law.

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Notes

- ¹ NAZ FOUNDATION Vs. GOVERNMENT OF NCT OF DELHI AND OTHERS.
- ² Will Delhi HC gay order apply across India?
- ³ Crimes Decree 2009.
- ⁴ Code Pénal (Algeria).
- ⁵ German Bundestag; Printed Paper 16/3597, p. 6.
- ⁶ Relatório sobre os Direitos Humanos – 2005 – Angola.
- ⁷ Chapter 08:01 PENAL CODE.
- ⁸ Loi n° 1/05 du 22 avril 2009 portant révision du Code pénal.
- ⁹ German Bundestag; Printed Paper 16/3597, p. 9.
- ¹⁰ Loi N°- 082 P/A.F - Loi 95-012/AF portant Code penal.
- ¹¹ German Bundestag; Printed Paper 16/3597, p. 8-9.
- ¹² UNHCHR Report on Egypt.
- ¹³ The Penal Code of Ethiopia of 1957.
- ¹⁴ Criminal Code of the Federal Democratic Republic of Ethiopia.
- ¹⁵ German Bundestag; Printed Paper 16/3597, p. 10-11.
- ¹⁶ Criminal Code (Amendment) Act, 2005.
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- ¹⁸ LOI N ° 98/036 du 31 Décembre 1998 PORTANT CODE PÉNAL.
- ¹⁹ Gaykenya.com.
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- ²¹ International Covenant on Civil and Political Rights.
- ²² UNHCR - Liberia: Information on the Treatment of Homosexuals, Persons with Mental Illness, Liberians of American Descent, and Criminal Deportees in Liberia.
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- ²⁴ Penal Code: Chapter 7:01 of the laws of Malawi.
- ²⁵ Code Pénal (Mauritania).
- ²⁶ Criminal Code, Cap. 195 of 1838.
- ²⁷ German Bundestag; Printed Paper 16/3597, p. 19.
- ²⁸ Código Penal (Mozambique).
- ²⁹ Human Rights Watch (2003), p. 265-266.
- ³⁰ Laws of the Federation of Nigeria 1990; Criminal Code Act; Chapter 77.
- ³¹ The Unfizzled Sharia Vector in the Nigerian State.
- ³² São Tomé and Príncipe: Oil and tourism threaten to treble rate of HIV infect in five years.
- ³³ LOI DE BASE N° 65-60 DU 21 JUILLET 1965 PORTANT CODE PENAL.
- ³⁴ Sexual Offences Laws, Interpol – Seychelles.
- ³⁵ Thompson, Bankole, 1999.
- ³⁶ Ganzglass, 1971, p. 456-457.
- ³⁷ Somaliland Criminal Law.
- ³⁸ Penal Code 1991 (Sudan).
- ³⁹ The Penal Code, 2003.
- ⁴⁰ Sexual Offences Laws, Interpol – Swaziland.
- ⁴¹ Swaziland Government warns homosexuals or sodomy are liable to imprisonment.
- ⁴² Penal Code (Cap. 16).
- ⁴³ Sexual Offences Special Provisions Act, 1998 (Tanzania).
- ⁴⁴ Code Pénal (Togo).
- ⁴⁵ Code Pénal (Tunisia).
- ⁴⁶ The Penal Code Act (Uganda).
- ⁴⁷ Zambian Laws: Volume 7.
- ⁴⁸ Criminal Law (Codification and Reform) Act [Chapter 9:23] Act 23/2004 (Zimbabwe).
- ⁴⁹ Penal Code of Afghanistan.
- ⁵⁰ Healey (2001), p. 272.
- ⁵¹ Penal Code, 1860 (Act XLV of 1860) (Bangladesh)
- ⁵² Penal Code of Bhutan (2004).
- ⁵³ Laws of Brunei; Penal Code.
- ⁵⁴ Criminal Code Ordinance 1936.
- ⁵⁵ Penal Code of Indonesia (last amended 1999).
- ⁵⁶ Special Report: Indonesia - Exchanging Pluralism For An Islamist State.
- ⁵⁷ Islamic Penal Code of Iran.
- ⁵⁸ Iraqi Penal Code of 1969.
- ⁵⁹ Death squads targeting gays in Iraq.
- ⁶⁰ Iraqi LGBT.
- ⁶¹ UNAMI Human Rights report 1 November – 31 December 2006.
- ⁶² They want us exterminated - Murder, Torture, Sexual Orientation and Gender in Iraq.
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- ⁶⁴ Helem: Lebanese Law and Practice.
- ⁶⁵ Penal Code (Act No. 574) (Malaysia).
- ⁶⁶ Convictions for sodomy follow unfair trials.

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- ⁶⁷ Jabatan Agama Islam Pulau Pinang.
- ⁶⁸ Penal Code (Maldives).
- ⁶⁹ Country Reports on Human Rights Practices 2005 - Maldives, US Department of State.
- ⁷⁰ Amnesty International - 2003 Report on Republic of Maldives.
- ⁷¹ The Myanmar Penal Code.
- ⁷² Omani Penal Code.
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- ⁷⁵ Love, hate and the law: decriminalizing homosexuality.
- ⁷⁶ Schmitt/Sofer, 1992, p. 141.
- ⁷⁷ Penal Code (Chapter 224) (Singapore).
- ⁷⁸ Laws of Sri Lanka; Chapter 22; Penal Code.
- ⁷⁹ Sexual Offences Laws, Interpol – Sri Lanka.
- ⁸⁰ German Bundestag. Printed Paper 16/3597, p. 27.
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- ⁸⁸ Criminal Code of the Republic of Uzbekistan.
- ⁸⁹ German Bundestag; Printed Paper 16/3597, p. 31.
- ⁹⁰ Initiative Against Homophobia.
- ⁹¹ The Sexual Offences Act, 1995 (Antigua and Barbuda).
- ⁹² Sexual Offences Act 1992.
- ⁹³ Belize Criminal Code (Revised Edition 2003).
- ⁹⁴ Sexual Offences Act 1998.
- ⁹⁵ LGBT Shadow Grenada.
- ⁹⁶ Laws of Guyana; Chapter 8:01; Criminal Law (Offences) Act.
- ⁹⁷ Laws of Jamaica; The Offences Against the Person Act.
- ⁹⁸ World Policy Reports: Sexual Orientation and Human Rights in the Americas.
- ⁹⁹ Sexual Offences Laws, Interpol – Saint Kitts and Nevis.
- ¹⁰⁰ Criminal Code (Saint Lucia).
- ¹⁰¹ Criminal Code of Saint Vincent and the Grenadines.
- ¹⁰² Sexual Offences Act 1986, as amended.
- ¹⁰³ Crimes Act 1969 (Cook Islands).
- ¹⁰⁴ Laws of the Gilbert Islands; Penal Code [Cap 67].
- ¹⁰⁵ Nauru - Legislation - Index of Written Laws.
- ¹⁰⁶ Criminal Code 1899.
- ¹⁰⁷ Palau National Code Annotated.
- ¹⁰⁸ Criminal Code 1974 (Papua New Guinea).
- ¹⁰⁹ Crimes Ordinance 1961.
- ¹¹⁰ Laws of Solomon Islands; Penal Code [Cap 26].
- ¹¹¹ Laws of Tonga; Criminal Offences [Cap 18].
- ¹¹² Laws of Tuvalu; Penal Code [Cap 8].
- ¹¹³ Homosexual acts are also legal in all Chinese associates; Hong Kong (1991) and Macau (1996).
- ¹¹⁴ NAZ FOUNDATION Vs. GOVERNMENT OF NCT OF DELHI AND OTHERS.
- ¹¹⁵ Republika Srpska in 2000.
- ¹¹⁶ East Germany (1968) and West Germany (1969).
- ¹¹⁷ Homosexual acts are also legal in Aruba and the Netherlands Antilles.
- ¹¹⁸ England & Wales (1967), Northern Ireland (1982), Scotland (1981), Akrotiri & Dhekelia (2000), Anguilla (2001), Bailiwick of Guernsey (1983), Bermuda (1994), British Virgin Islands (2001), Cayman Islands (2001), Falkland Islands (1989), Gibraltar (1993), Isle of Man (1992), Jersey (1990), Montserrat (2001), Pitcairn, South Georgia, St Helena, Turks & Caicos Islands (2001) and all other territories.
- ¹¹⁹ Decree No. 332, Official Gazette of 31 July 2008.
- ¹²⁰ By Supreme Court verdict. It also struck down the sodomy law in Puerto Rico, which was later repealed in 2005. Previously in: Alaska (1980), Arizona (2001), Arkansas (2002), California (1976), Colorado (1972), Connecticut (1971), Delaware (1973), Georgia (1998), Hawaii (1973), Illinois (1962), Indiana (1977), Iowa (1977), Kentucky (1992), Maine (1976), Minnesota (2001), Montana (1997), Nebraska (1978), Nevada (1993), New Hampshire (1975), New Jersey (1979), New Mexico (1975), New York (1980/2001), North Dakota (1975), Ohio (1974), Oregon (1972), Pennsylvania (1980/1995), Rhode Island (1998), South Dakota (1977), Tennessee (1996), Vermont (1977), Washington (1976), West Virginia (1976), Wisconsin (1983), Wyoming (1977) and District of Columbia (1993), as well as the associates of American Samoa (1980), American Virgin Islands (1985), Guam (1978) and Northern Mariana Islands (1983). Thereto, Missouri repealed its sodomy law from the books in 2006.
- ¹²¹ New South Wales (1983), Norfolk Island (1993), Northern Territory (1984), Queensland (1991), South Australia (1972), Tasmania (1997), Victoria (1981), Western Australia (1990).
- ¹²² The sodomy statutes were repealed by the Crimes Decree 2009, which came into force on 1 February 2010.

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- ¹²³ There is no general prohibition of homosexual acts in the Penal Code. However, statutes on offences against the religion, morality and debauchery are used to prosecute homosexual and bisexual men in particular.
- ¹²⁴ In mainland of China since decriminalisation in 1997; also in Hong Kong (2005) and in Macau (1996).
- ¹²⁵ The Faeroe Islands (1988), Greenland (1979).
- ¹²⁶ The law applies to the following overseas departments and territories upon adoption: French Guiana, Martinique, Guadeloupe, Reunion, St Barthélemy, St Martin, St Pierre & Miquelon, as well as to French Polynesia, New Caledonia and Wallis & Futuna in 1984, and Mayotte.
- ¹²⁷ East Germany (GDR) in 1989 and the rest of Germany in 1994.
- ¹²⁸ The age of consent is also equal in the Dutch associates of Aruba (2003) and the Netherlands Antilles (2000).
- ¹²⁹ Akrotiri & Dhekelia (2003), Falkland Islands (2005), Isle of Man (2006), Jersey (2007), Pitcairn, South Georgia, St Helena as well as all more or less uninhabited islands.
- ¹³⁰ All states and territories but Queensland: New South Wales (2003), Norfolk Island (1993), Northern Territory (2004), South Australia (1975), Tasmania (1997), Victoria (1981), Western Australia (2002).
- ¹³¹ Bailiwick of Guernsey, Gibraltar.
- ¹³² Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Montserrat, Turks & Caicos Islands.
- ¹³³ Such laws are available also in Republika Srpska (2000, 2003).
- ¹³⁴ The law is not applicable to the Faeroe Islands or Greenland. However, incitement to hatred based on sexual orientation is prohibited in the Faeroe Islands since 2007, and in Greenland from 1 January 2010.
- ¹³⁵ Bailiwick of Guernsey (2005), Gibraltar (2004), Isle of Man (2007).
- ¹³⁶ Bahia (1997), Federal District (2000), Minas Gerais (2001), Paraíba (2003), Piauí (2004), Rio de Janeiro (2000), Rio Grande do Sul (2002), Santa Catarina (2003), São Paulo (2001) as well as a number of cities.
- ¹³⁷ United States: California (1993), Colorado (2007), Connecticut (1991), Delaware (2009), Hawaii (1992), Illinois (2006), Iowa (2007), Maine (2005), Maryland (2001), Massachusetts (1990), Minnesota (1993), Nevada (1999), New Hampshire (1998), New Jersey (1992), New Mexico (2003), New York (2003), Oregon (2008), Rhode Island (1995), Vermont (1992), Washington (2006), Wisconsin (1982) and D.C. (1973) as well as a number of cities and towns.
- ¹³⁸ Capital Territory (1992), New South Wales (1983), Northern Territory (1993), Queensland (1992), South Australia (1986), Tasmania (1999), Victoria (1996), Western Australia (2002).
- ¹³⁹ United States: California (2004), Colorado (2007), Illinois (2006), Iowa (2007), Maine (2005), Minnesota (1993), New Jersey (2007), New Mexico (2003), (Oregon (2008), Rhode Island (2001), Vermont (2007), Washington (2006) and District of Columbia (2006), as well as a number of cities and towns.
- ¹⁴⁰ Capital Territory (1992), New South Wales (1996), Northern Territory (1993), Queensland (2003), South Australia (1986), Tasmania (1999), Victoria (2000), Western Australia (2001). The only states using the term "Gender identity" are Queensland and Victoria, whereas Capital Territory uses the terms "Transgender" and "Intersex", New South Wales the term "Transgender" and Western Australia the term "Gender history". The rest of the states use the term "Transsexuality".
- ¹⁴¹ Berlin (1995), Brandenburg (1992), Thuringia (1993).
- ¹⁴² A new constitution was adopted by referendum in 2008. This protects people from discrimination based both on sexual orientation and gender identity.
- ¹⁴³ Buenos Aires (1996).
- ¹⁴⁴ Alagoas (2001), Federal District (1993), Mato Grosso (1989), Pará (2003), Santa Catarina (2002), Sergipe (1989).
- ¹⁴⁵ The law applies to the following overseas departments and territories upon adoption: French Guiana, French Polynesia, Guadeloupe, Martinique, New Caledonia, Réunion, St Barthélemy, St Martin, St Pierre & Miquelon and Wallis & Futuna, but not to Mayotte.
- ¹⁴⁶ Such laws have only been adopted in England and Wales (2005), Northern Ireland (2004) and Scotland (effective 24-Mar-2010).
- ¹⁴⁷ Also available on state level in Arizona (1995), California (1988), Colorado (2005), Connecticut (1990), Delaware (1997), Florida (1991), Hawaii (2001), Illinois (1991), Iowa (1990), Kansas (2002), Kentucky (1998), Louisiana (1997), Maine (1995), Maryland (2005), Massachusetts (1996), Minnesota (1989), Missouri (1999), Nebraska (1997), Nevada (1989), New Hampshire (1991), New Jersey (1990), New Mexico (2003), New York (2000), Oregon (1990), Rhode Island (1998), Tennessee (2000), Texas (2001), Vermont (1990), Washington (1993), Wisconsin (1988) and District of Columbia (1990), as well as Puerto Rico (2005).
- ¹⁴⁸ Such laws have been adopted in Northern Ireland (2004), England and Wales (2005) and Scotland (effective 24-Mar-2010).
- ¹⁴⁹ The legal term used is "Sexual identity".
- ¹⁵⁰ Federal law in 2009 as well as in the states of California (1999), Colorado (2005), Connecticut (2004), Hawaii (2003), Maryland (2005), Missouri (1999), New Mexico (2003), Vermont (1999) and District of Columbia (1990) and Puerto Rico (2005).
- ¹⁵¹ The law is applicable to Faeroe Islands (2007) and to Greenland (1-Jan-2010).
- ¹⁵² The law applies to the following overseas departments and territories upon adoption: French Guiana, French Polynesia, Guadeloupe, Martinique, Mayotte, New Caledonia, Réunion, St Barthélemy, St Martin, St Pierre & Miquelon and Wallis & Futuna.
- ¹⁵³ Such laws have only been adopted in Northern Ireland (2004) and England and Wales (effective 23-Mar-2010).
- ¹⁵⁴ The law included also "Sexual identity".
- ¹⁵⁵ New South Wales (1993), Queensland (2003), Tasmania (1999).
- ¹⁵⁶ Connecticut (2008), District of Columbia (2010), Iowa (2009), Massachusetts (2004), New Hampshire (2010) and Vermont (2009).
- ¹⁵⁷ The law was extended to Greenland in 1996, however still not applicable to the Faeroe Islands.
- ¹⁵⁸ California (several acts from 2000 and onwards), Nevada (2009), New Jersey (2007), Oregon (2008), Washington (2007–2009) and Wisconsin (2009).

¹⁵⁹ Australian Capital Territory (2008), Tasmania (2004) and Victoria (1-dec-2008).

¹⁶⁰ The law applies to the following overseas departments and territories upon adoption: French Guiana, Guadeloupe, Martinique, Réunion, St Barthélemy, St Martin, St Pierre & Miquelon, and to New Caledonia and Wallis and Futuna in 2009.

¹⁶¹ Colorado (1-jul-2009), Hawaii (1997), Maryland (1-jul-2008), New York (several acts from 2003 and onwards), Rhode Island (several acts from 1998 and onwards).

¹⁶² Capital Territory (1994, Civil Partnerships since 2008), New South Wales (several acts from 1999 and onwards), Norfolk Island (2006), Northern Territory (2004), Queensland (several acts from 1999 and onwards), South Australia (2003, 2007), Tasmania (2004), Victoria (2001, 2008), Western Australia (2002).

¹⁶³ Such a law entered into force in England and Wales in 2005, while in Scotland on 28 September 2010. In other parts of the United Kingdom, joint adoption by same-sex couples is not permitted.

¹⁶⁴ British Columbia (1996), Manitoba (2002), New Brunswick (2008), Newfoundland & Labrador (2003), Northwest Territories (2002), Nova Scotia (2001), Ontario (2000), Quebec (2002), Saskatchewan (2001).

¹⁶⁵ California, Colorado, Connecticut, Illinois, Indiana, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Oregon, Vermont and District of Columbia.

¹⁶⁶ Capital Territory (1998), New South Wales (1996), Northern Territory (1997), Queensland (2004), South Australia (1988), Tasmania (2000), Victoria (1997), Western Australia (2001).