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# State-sponsored Homophobia

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

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an ILGA report

# Content

# Page

Afghanistan.....	7
Algeria .....	7
Angola.....	7
Antigua and Barbuda .....	8
Bahrain.....	8
Bangladesh .....	8
Barbados.....	9
Belize .....	9
Benin .....	10
Bhutan .....	10
Botswana .....	10
Brunei .....	11
Burkina Faso .....	11
Cameroon.....	11
Comoros .....	11
Cook Islands (New Zealand associate) .....	12
Costa Rica .....	12
Democratic Republic of Congo .....	13
Djibouti .....	13
Dominica.....	13
Egypt .....	14
Eritrea.....	14
Ethiopia .....	14
Gambia.....	15
Gaza (Part of Palestinian Authority) .....	15
Ghana .....	15
Grenada.....	16
Guinea .....	16
Guinea-Bissau .....	16
Guyana.....	17
India.....	17
Indonesia .....	17
Iran .....	18
Iraq .....	19
Jamaica .....	20
Kenya.....	20
Kiribati .....	21
Kuwait .....	21
Lebanon.....	22
Lesotho .....	22
Liberia .....	22
Libya .....	22
Malawi .....	22
Malaysia.....	23
Maldives .....	23
Mauritania .....	24
Mauritius.....	24
Morocco.....	25
Mozambique.....	25
Myanmar / Burma.....	27
Namibia .....	27
Nauru.....	27

Nepal .....	27
Niger .....	28
Nigeria .....	28
Niue (New Zealand associate).....	30
Oman .....	30
Pakistan.....	31
Palau .....	31
Panama .....	31
Papua New Guinea .....	31
Qatar .....	32
Saint Kitts and Nevis.....	32
Saint Lucia.....	32
Saint Vincent and the Grenadines .....	33
São Tomé and Príncipe .....	33
Saudi-Arabia .....	33
Senegal .....	34
Seychelles .....	34
Sierra Leone.....	34
Singapore .....	34
Solomon Islands.....	35
Somalia .....	35
Sri Lanka.....	36
Sudan.....	36
Swaziland.....	37
Syria .....	37
Tanzania .....	37
Togo .....	38
Tokelau (New Zealand associate).....	38
Tonga.....	39
Trinidad and Tobago.....	39
Tunisia .....	39
Turkish Republic of Northern Cyprus.....	40
Turkmenistan .....	40
Tuvalu.....	40
Uganda .....	41
United Arab Emirates.....	41
Uzbekistan.....	42
Western Samoa .....	42
Yemen.....	43
Zambia.....	43
Zimbabwe .....	43
<b>LGBTI rights global overview .....</b>	<b>45</b>
Sources.....	48
Notes .....	54

Homophobia is the fear of, aversion to, or discrimination against homosexuality or homosexuals. The hatred, hostility, or disapproval of homosexual people.

The impressive collection of laws presented in this report is an attempt to show the extent of State-sponsored homophobia in the world. In 2008, no less than 86 member states of the United Nations still criminalize consensual same sex acts among adults, thus institutionally promoting a culture of hatred. Among those, 7 have legal provisions with death penalty as punishment. To those 86 countries, one must add 6 provinces or territorial units which also punish homosexuality with imprisonment.

With this publication, the International Lesbian and Gay Association, a 30 year old world federation which gather over 670 lesbian, gay, bisexual, transgender and intersex groups from over 100 countries hopes to raise awareness about this reality which extent remains unknown to the vast majority of people.

Although many of the countries listed in the report do not systematically implement those laws, their mere existence reinforces a culture where a significant portion of the citizens need to hide from the rest of the population out of fear. A culture where hatred and violence are somehow justified by the State and force people into invisibility or into denying who they truly are.

Whether exported by colonial empires or the result of legislations culturally shaped by religious beliefs, if not deriving directly from a conservative interpretation of religious texts, homophobic laws are the fruit of a certain time and context in history. Homophobia is cultural. Homophobia, lesbophobia and transphobia are not inborn. People learn them as they grow.

In many cases, "prejudice against homosexual people" is the result of ignorance and fear. This long catalogue of horrors is but a tale of the intolerance against what is foreign and different.

In *Toonen v Australia*, the UN Human Rights Committee in March 1994 confirmed that laws criminalizing consensual same-sex activity violate both the right to privacy and the right to equality before the law without any discrimination, contrary to articles 17(1) and 26 of the International Covenant on Civil and Political Rights.

The Committee further considered that such laws interfere with privacy rights, whether or not they are actively enforced, and "run counter to the implementation of effective education programmes in respect of HIV/AIDS prevention" by driving marginalised communities underground.

States' international obligations to respect the human rights of all persons, irrespective of sexual orientation and gender identity, were recently articulated in the "Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity". The Principles were developed and unanimously adopted by a distinguished group of human rights experts, from diverse regions and backgrounds. These experts included judges, academics, a former UN High Commissioner for Human Rights, UN Special Procedures, members of treaty bodies, members of civil society and others.

Principle 2 of the Yogyakarta Principles affirms the right of all persons to equality before the law without discrimination on the basis of sexual orientation or gender identity, and specifically

confirms the obligation of States to “repeal criminal and other legal provisions that prohibit or are, in effect, employed to prohibit consensual sexual activity among people of the same sex who are over the age of consent, and ensure that an equal age of consent applies to both same-sex and different-sex sexual activity.”

Principle 6 of the Yogyakarta Principles affirms the right of all persons, regardless of sexual orientation or gender identity, to the enjoyment of privacy without arbitrary or unlawful interference, and confirms States’ obligation to “repeal all laws that criminalise consensual sexual activity among persons of the same sex who are over the age of consent, and ensure that an equal age of consent applies to both same-sex and different-sex sexual activity.”

The UN High Commissioner for Human Rights has welcomed the Yogyakarta Principles as a “timely reminder” of the basic tenets of universality and non-discrimination, and noted that “respect for cultural diversity is insufficient to justify the existence of laws that violate the fundamental rights to life, security and privacy by criminalizing harmless private relations between consenting adults.”

It is important to set this debate where it belongs: on the human rights agenda. Altogether 60 countries have publicly supported sexual orientation as an issue at the United Nations Commission on Human Rights/Human Rights Council since 2003. Criminalization of consensual same sex activity is being challenged by NGOs and States in the current Universal Periodic Review.

Decriminalization of same sex activity is as urgent as ever. The fight for the respect of every minority has to be everyone’s fight. We believe that the recognition of sexual minorities as components of our civil societies and the acknowledgement of the equality of their human rights can contribute to learning how to live together, that is, the learning of democracy.

**Rosanna Flamer Caldera & Philipp Braun**  
Co-secretaries generals of ILGA, the International Lesbian and Gay Association

*The International Lesbian and Gay Association is a world-wide network of national and local groups dedicated to achieving equal rights for lesbian, gay, bisexual and transgendered (LGBT) people everywhere.*

*Founded in 1978, it now has more than 670 member organisations. Every continent and around 100 countries are represented.*

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

[www.ilga.org](http://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 LGBT issues can be hard as laws are changed all the time, and due to untrustworthy or nonexistent sources on the topic. Therefore, we aim by this report to give as updated and correct information as possible on the topic on legislation criminalizing homosexual acts.

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 sources used are from governmental and non-governmental web sites and not from books. The report only deals with legislation criminalizing consensual sexual acts between persons of the same sex in private above the age of consent. Laws dealing with such acts in public, with under aged people, with force or by any other reason are not included. Nor does it include countries where such acts are legal. Some legislation, for example the laws criminalizing same-sex acts in Lesotho, Namibia and Swaziland refers to common law. Common law is an Anglo-American legal system that is based on precedent court verdicts and not written legislation.

#### **News in this report**

As of February 1, 2008 sodomy is decriminalized in Nicaragua. The prohibition in former article 204 has been repealed as of the new Penal Code, law No. 641, published in the State Gazette No. 232 of December 3, 2007. In addition, the new code makes it an aggravating circumstance if any of the crimes prohibited under the code are based on sexual orientation. A prohibition of discrimination based on sexual orientation is also part of the new Penal Code.<sup>1</sup> Therefore the section on Nicaragua has been removed from this report.

New in the report are also sections on Comoros, Burkina Faso and Niger. It has been found out that Comoros indeed has a prohibition of same-sex acts, both male and female, and Burkina Faso and Niger are included as they have laws that can be used against sexual acts between persons of the same sex. The Gambian law has hereto been modified in the year 2005 to include sexual acts between women, and the modified law is now included in the report. References to all legislation can be found in the foot notes, the foot note list and the source list in the end of the survey.

This year, ILGA has included in this report a list of countries according to their legislations affecting LGBTI people (see page 45). This will allow readers to get a quick and comprehensive overlook on the legal situation in the world. ILGA has also published a world map on LGBTI rights. It is available on [www.ilga.org](http://www.ilga.org).

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*This ILGA report is copyright free provided you mention both the author and ILGA, the International Lesbian and Gay 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. If you have any additional information not available in this report, we would be grateful if you could contact us at [information@ilga.org](mailto:information@ilga.org), and we will investigate the matter.*

## **Afghanistan**

**Male/Male** Illegal

**Female/Female** Illegal

Penal Code, 1976<sup>2</sup>

### 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 homosexual acts and not paedophilia, which instead falls under subsection a) of article 427. Islamic Sharia law, criminalizing 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.

## **Algeria**

**Male/Male** Illegal

**Female/Female** Illegal

Penal Code (Ordinance 66-156 of June 8, 1966)<sup>3</sup>

Art. 338 - “Tout coupable d’un acte d’homosexualité est puni d’un emprisonnement de deux mois à deux ans et d’une amende de 500 à 2000 DA.

Si l’un des auteurs est mineur de dix-huit ans, la peine à l’égard du majeur peut être élevée jusqu’à trois ans d’emprisonnement et 10.000DA d’amende.”

English translation:<sup>4</sup>

Article 338

"Anyone guilty of a homosexual act is punishable with imprisonment of between 2 months and two years, and with a fine of 500 to 2000 Algerian Dinars.

If one of the participants is below 18 years old, the punishment for the older person can be raised to 3 years' imprisonment and a fine of 10,000 dinars".

## **Angola**

**Male/Male** Illegal

**Female/Female** Illegal

Penal Code of September 16, 1886<sup>5</sup> (Inherited from the Portuguese colonial era)

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!

## **Antigua and Barbuda**

**Male/Male** Illegal **Female/Female** Illegal

Sexual Offences Act of 1995 (Act No. 9)<sup>6</sup>

### Buggery

Article 12.

“(1) A person who commits buggery is guilty of an offences 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 offences 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.”

## **Bahrain**

**Male/Male** Illegal **Female/Female** Legal

Penal Code of 1976, Legislative Decree No. 15

“Buggery is an illegal act punished by 10 years of imprisonment maximum.”<sup>7</sup>

## **Bangladesh**

**Male/Male** Illegal **Female/Female** Legal

Penal Code, 1860 (Act XLV of 1860)<sup>8</sup>

### 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.”



## **Barbados**

**Male/Male** Illegal                      **Female/Female** Illegal

Sexual Offences Act 1992, Chapter 154<sup>9</sup>

### 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** Illegal

THE SUBSTANTIVE LAWS OF BELIZE REVISED EDITION 2003, Criminal Code [CAP. 101]<sup>10</sup>

### Aggravated assault

Section 45.

“Every person who commits an unlawful assault of any of the following kinds, namely-

- (a) assault upon a person acting as a judicial officer or as a peace officer; or
- (b) assault upon a minister of religion acting in the execution of the duties of his office; or
- (c) assault upon a person in any court of justice, or assault upon a person in order to prevent him from doing, or on account of his doing or having done, anything as a party, agent, counsel, or witness, in any judicial proceeding; or
- (d) assault with a purpose to commit, or in committing or attempting to commit, any other crime; or
- (e) assault with any deadly or dangerous instrument or means; or
- (f) indecent assault on any person, whether male or female; or
- (g) assault upon any male child or any female of such a nature that it cannot in the opinion of the court be adequately punished under section 44, shall be guilty of an aggravated assault and, on conviction thereof, be liable to imprisonment for two years: Provided that in respect of an indecent assault upon a female or an aggravated assault upon any male child or any female, a person convicted under this section shall be liable to imprisonment for three years instead of two years.”

### 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.”

## **Benin**

**Male/Male** Illegal

**Female/Female** Illegal

Penal Code of 1996<sup>11</sup>

Article 88 - “Anyone who commits an indecent act or an act against nature with an individual of the same sex will be punished with 1 to 3 years prison and a fine of 100,000 to 500,000 francs.”

## **Bhutan**

**Male/Male** Illegal

**Female/Female** Illegal

Bhutan Penal Code 2004<sup>12</sup>

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.”

## **Botswana**

**Male/Male** Illegal

**Female/Female** Illegal

Chapter 08:01 PENAL CODE<sup>13</sup>

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.”

## **Brunei**

**Male/Male** Illegal **Female/Female** Legal

PENAL CODE, CHAPTER 22, revised edition 2001<sup>14</sup>

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.”

## **Burkina Faso**

**Male/Male** Not illegal as such **Female/Female** Not illegal as such

Penal Code of 1996<sup>15</sup>

Article 410: “Any person who causes a public nuisance shall be punished with a term of imprisonment of between two months and two years and a fine of between 50,000 and 600,000 francs. Any deliberate act that is contrary to good morals and is committed in public or in a private place visible to the public and may offend the sense of decency of third parties who involuntarily witness the act shall constitute a public nuisance. However, any such act, if it is committed in private in the presence of a minor, shall constitute the offence of the indecent incitement of minors.”

Article 411: “Any act of a sexual nature that is contrary to good morals and is committed directly and deliberately on another person with or without force, compulsion or surprise, shall constitute an offence against (public) decency.”

## **Cameroon**

**Male/Male** Illegal **Female/Female** Illegal

Penal Code (Law No. 65-LF-24 of 12 November 1965 and law No. 67-LF-1 of 12 June 1967)<sup>16</sup>

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<sup>17</sup>

Article 318 of the Penal Code criminalizes impudent acts against the nature with up to five years imprisonment and a fine of 50 000 to 1 000 000 francs.

Original French text:

Article 318. - “Tout attentat à la pudeur consommé ou tenté sur la personne d'un enfant de l'un

ou l'autre sexe âgé de moins de quinze ans, sera puni d'un emprisonnement de deux à cinq ans. Sera puni du maximum de la peine, l'attentat à la pudeur commis par tout ascendant ou toute personne ayant autorité sur la victime mineure âgée de plus de quinze ans. Sans préjudice des peines plus graves prévues par les alinéas qui précèdent ou par les articles 320 et 321 du présent code, sera puni d'un emprisonnement d'un à cinq ans et d'une amende de 50 000 à 1 000 000 francs, quiconque aura commis un acte impudique ou contre nature avec un individu de son sexe. Si l'acte a été commis avec un mineur, le maximum de la peine sera toujours prononcé.”

### **Cook Islands (New Zealand associate)**

<b>Male/Male</b>	<b>Illegal</b>	<b>Female/Female</b>	<b>Legal</b>
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Crimes Act 1969<sup>18</sup>

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!

### **Costa Rica**

<b>Male/Male</b>	<b>Not illegal as such</b>	<b>Female/Female</b>	<b>Not illegal as such</b>
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Penal Code, Law N° 4573 and its reforms, of 4 March 1970<sup>19</sup>

"ARTICLE 382.- "It will be imposed from two to thirty days fines:  
 ...15) For the one that practiced the sodomy in a scandalous form"

(Authors translation)

Original Spanish text:

"ARTÍCULO 382.- Se impondrá de dos a treinta días multa:  
...15) Al que practicare la sodomía en forma escandalosa"

### **Democratic Republic of Congo**

<b>Male/Male</b>	Not illegal as such	<b>Female/Female</b>	Not illegal as such
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Penal Code of 1940, as modified in 2006<sup>20</sup>

Homosexual acts are not banned as such, but article 172 criminalizing offences against the moral can be used against same-sex contacts. Violations of the statute are punished with between three months to five years imprisonment and a fine.

Original French text:

Article 172. "Quiconque aura attenté aux mœurs en excitant, facilitant ou favorisant pour satisfaire les passions d'autrui, la débauche ou la corruption des personnes de l'un ou l'autre sexe, âgées de moins de dix-huit ans, sera puni d'une servitude pénale de trois mois à cinq ans et d'une amende de cinquante mille à cent mille Francs congolais constants."

### **Djibouti**

<b>Male/Male</b>	Illegal	<b>Female/Female</b>	Illegal
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Several sources verify that sexual intercourse between persons of the same sex is illegal in Djibouti.<sup>21 22</sup>

The relevant articles of the Penal Code of 1995 are articles 347-352 criminalizing "impudent acts" (un acte impudique) under the crimes section of "L'attentat à la pudeur".<sup>23</sup>

### **Dominica**

<b>Male/Male</b>	Illegal	<b>Female/Female</b>	Illegal
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Sexual Offences Act 1998<sup>24</sup>

Article 14. "Any person who commits an act of gross indecency with another person is guilty of an offense and is liable on conviction to imprisonment for five years."

Article 15. Buggery (applying both to such acts between men and between women and men) is punished with up to ten years imprisonment. The court may also commit the offender to a Psychological Hospital instead of to imprisonment.

Article 16. Attempted buggery is punished with up to four years imprisonment.

## Egypt

**Male/Male** Not illegal as such      **Female/Female** Not illegal as such

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 during the recent years been used against gay men for prosecutions.<sup>25</sup>

Law n° 10, 1961 on 'Combating of prostitution, incitement and its encouragement'<sup>26</sup>

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<sup>27</sup> (Inherited from Ethiopian rule)

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<sup>28</sup>

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.”

## **Gambia**

**Male/Male** Illegal **Female/Female** Illegal

Criminal Code 1965, Revised Laws 1990, as amended in 2005<sup>29 30</sup>

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”

## **Gaza (Part of Palestinian Authority)**

**Male/Male** Illegal **Female/Female** Legal

The British Mandate Criminal Code Ordinance, No. 74 of 1936 is in force in Gaza.<sup>31</sup>

Section 152(2) of the Code criminalizes sexual acts between men<sup>32</sup> with a penalty of up to 10 years.<sup>33</sup>

This Code was in force also in Jordan till 1951 and in Israel till 1977, before they adopted their own Penal Codes. Note that in the West Bank, however, the Jordanian Penal Code of 1951, largely modified in 1960 is in force, having no prohibition on sexual acts between persons of the same sex.

## **Ghana**

**Male/Male** Illegal **Female/Female** Legal

Criminal Code, 1960 (Act 29), as amended to 2003<sup>34</sup>

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.”

## **Grenada**

**Male/Male** Illegal

**Female/Female** Legal

Criminal Code<sup>35</sup>

Article 431

“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”.

## **Guinea**

**Male/Male** Illegal

**Female/Female** Illegal

Penal Code / LOI N ° 98/036 du 31 Décembre 1988 PORTANT CODE PÉNAL<sup>36</sup>

“Article 325: - Tout acte impudique ou contre nature commis avec un individu de son sexe sera puni d’un emprisonnement de 6 mois à 3 ans et d’une amende de 100.000 à 1.000.000 de Francs guinéens. Si l’acte a été commis avec un mineur de moins de 21 ans, le maximum de la peine sera toujours prononcée.”

English translation:<sup>37</sup>

“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. If the act was consummated or attempted with violence, the guilty person will be condemned to five to ten years of imprisonment.”

## **Guinea-Bissau**

**Male/Male** Illegal

**Female/Female** Illegal

Several sources confirm that homosexual acts are illegal in Guinea-Bissau.<sup>38 39 40</sup>

Penal Code of 1886, which was inherited from the Portuguese rule, is in force. Articles 70 and 71 in the Portuguese Penal Code of 1886, 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!



## **Guyana**

**Male/Male** Illegal **Female/Female** Legal

Criminal Law (Offences) Act<sup>41</sup>

Committing acts of gross indecency with male person

Section 352

“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.”

Attempt to commit unnatural offences

Section 353

“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.”

Buggery

Section 354

“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.”

## **India**

**Male/Male** Illegal **Female/Female** Legal

THE INDIAN PENAL CODE, 1860, ACT NO. 45<sup>42</sup>

Unnatural offences.

Section 377. “Unnatural offences.--Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with 1\*[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

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

## **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.<sup>43</sup> 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.<sup>44</sup>

## **Iran**

**Male/Male** Illegal

**Female/Female** Illegal

Islamic Penal Code of Iran of 1991<sup>45</sup>

### “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 Sharia judge 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 Tafhizis 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 (ValieAmr) 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.”

### Part 4: Punishment for Pimping

“Article 135: Pimping means that someone brings two individuals together or puts them in contact with each other for fornication or homosexuality.

Article 136: Pimping is proved by two confessions if the confessor is mature, of sound mind has free will and intention.

Article 137: Pimping is proved by the testimony of two righteous men.

Article 138: Punishment of a man for pimping is seventy (70) lashes and exile from the place of (his) domicile for a period of 3 months up to one year and punishment of pimping by a woman is seventy five (75) lashes only.”

## Iraq

**Male/Male** Legal\*

**Female/Female** Legal\*

Iraq reinstated the Penal Code of 1969 after the American invasion in 2003. The Penal Code does not prohibit sexual activities between consenting adults of the same sex.<sup>46</sup> However, as the country is under war, and law enforcement is not functioning properly, death squads operate in the country, killing homosexuals.<sup>47</sup>

## **Jamaica**

**Male/Male** Illegal

**Female/Female** Legal

The Offences Against the Person Act<sup>48</sup>

### 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."

## **Kenya**

**Male/Male** Illegal

**Female/Female** Legal

Cap.63 Penal Code<sup>49</sup>

"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."

"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."

"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.”

(Articles amended by Act No. 5 of 2003)

## **Kiribati**

**Male/Male** Illegal

**Female/Female** Legal

Laws of the Gilbert Islands, Penal Code [Cap 67] Revised Edition 1977<sup>50</sup>

### 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.”

## **Kuwait**

**Male/Male** Illegal

**Female/Female** Legal

Penal Code, Law No. 16 of June 2, 1960, as amended in 1976<sup>51</sup>

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 criminalized by Article 192.

## **Lebanon**

**Male/Male** Illegal **Female/Female** Illegal

Penal Code of 1943, as amended in 2003<sup>52</sup>

Article 534. "Punishment of all sexual relations that are unnatural with imprisonment from one month to one year, and a fine ranging between LBP200,000 and one million Lebanese pounds".

## **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".<sup>53 54</sup>

## **Liberia**

**Male/Male** Illegal **Female/Female** Illegal

Penal Law, Revised Liberian Statutes<sup>55</sup>

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 1953, Third Chapter: Offences against freedom, honour and morality<sup>56</sup>

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<sup>57</sup>

Section 153 "Unnatural offences"

"Carnal knowledge of any person against the order of nature" or "permitting a male person to have carnal knowledge of [a male or female person] against the order of nature" - up to fourteen

years imprisonment, with or without corporal punishment.

Section 156 “Indecent practices between males”

Gross indecency with another male person in public or private - up to five years imprisonment.

## Malaysia

**Male/Male** Illegal

**Female/Female** Legal\*

Penal Code (Act No. 574) (Consolidated Version with amendments as of November 15, 1998)<sup>58</sup>

### 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, criminalizing homosexual and lesbian acts with up to three years imprisonment and whipping.<sup>59</sup> 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.<sup>60</sup>

## Maldives

**Male/Male** Illegal

**Female/Female** Illegal

Sexual acts between men and between women are not regulated by the Penal Code, but are prohibited by Islamic Sharia law applicable to Maldives along with civil law, with penalties decided by Islamic courts.<sup>61</sup> 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.<sup>62</sup> There have been reports of women being sentenced to a whipping as well for lesbian acts.<sup>63</sup>

## **Mauritania**

**Male/Male** Illegal

**Female/Female** Illegal

The Penal Code of 1984 (Ordonnance no. 83-162 du juillet 1984 portant institution du code pénal)<sup>64</sup>

“ART. 308. - All adult muslim men who commit 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”.

(Authors translation)

Original French texts:

“ART. 308. - Tout musulman majeur qui aura commis un acte impudique ou contre nature avec un individu de son sexe sera puni de peine de mort par lapidation publique. S'il s'agit de deux femmes, elles seront punies de la peine prévue à l'article 306, paragraphe premier.”

“ART. 306. - Toute personne qui aura commis un outrage public à la pudeur et aux moeurs islamiques ou a violé les lieux sacrés ou aidé à les violer, si d t t e action ne figure pas dans les crimes emportant la Ghissass ou la Diya, sera punie d'une peine correctionnelle de trois mois à deux ans d'emprisonnement et d'une amende de 5 000 à 60000 UM. Tout musulman coupable du crime d'apostasie, soit par parole, soit par action de façon apparente ou évidente, sera invite à se repentir dans un délai de trois jours. S'il ne se repent pas dans ce délai, il est condamné à mort en tant qu'apostat, et ses biens seront confisqués au profit du Trésor. S'il se repent avant l'exécution de cette sentence, le parquet saisira ia Cour suprême, à l'effet de sa réhabilitation dans tous ses droits, sans préjudice d'une peine correctionnelle prévue au le' paragraphe du présent article.

Toute personne coupable du crime d'apostasie (Zendagha) sera, à moins qu'elle ne se repente au préalable, punie de la peine de mort. Sera punie d'une peine d'emprisonnement d'un mois à deux ans, toute personne qui sera coupable du crime d'attentat à la pudeur. Tout musulman majeur qui refuse de prier tout en reconnaissant l'obligation de la prière sera invité à s'en acquitter jusqu'à la limite du temps prescrit pour l'accomplissement de la prière obligatoire concernée. S'il persiste dans son refus jusqu'à la fin de ce délai, il sera puni de la peine de mort. S'il ne reconnaît pas l'obligation de la prière, il sera puni de la peine pour apostasie et ses biens confisqués au & bfit du Trésor public. 11 ne bénéficiera pas de l'office consacré par le rite musulman.”

## **Mauritius**

**Male/Male** Illegal

**Female/Female** Legal

Criminal Code<sup>65</sup>

Section 250 Sodomy and bestiality

“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.”



Based on the definition of sodomy in the other former British colonies in Africa as Namibia, Swaziland and Zimbabwe which only covers anal intercourse; this is probably the situation for Mauritius as well.

## **Morocco**

**Male/Male** Illegal

**Female/Female** Illegal

Penal Code of November 26, 1962<sup>66</sup>

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 (Inherited from the Portuguese colonial era)<sup>67</sup>

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.

Original Portuguese text:

“ARTIGO 70°

(Medidas de segurança)

São medidas de segurança:

1° . - O internamento em manicómio criminal;

2° . - O internamento em casa de trabalho ou colónia agrícola;

3° . - A liberdade vigiada;

4° . - A caução de boa conduta;

5° . - A interdição do exercício de profissão;

§ 1° . - 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 68° .

§ 2° . - 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.

§ 3° . - 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 121° .

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.

§ 4° . - 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.

§ 5° . - 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 delincente.
- § 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 inimizabilidade

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.”

## **Myanmar/Burma**

**Male/Male** Illegal **Female/Female** Legal

Penal Code, Act 45/1860, Volume VIII, Revised Edition<sup>68</sup>

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.”

## **Namibia**

**Male/Male** Illegal **Female/Female** Legal

Sodomy or “Unnatural sex crime” is prohibited as a common law offence.<sup>69</sup> It appears to cover only sexual acts between men.

## **Nauru**

**Male/Male** Illegal **Female/Female** Legal

Criminal Code of Queensland in its application to Nauru<sup>70 71</sup>

“208. 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”

## **Nepal**

**Male/Male** Illegal **Female/Female** Illegal

Country Code 1963/2001<sup>72</sup>

Article 16 Rape of animals/sodomy

“(1) No person should have sexual intercourse with fourlegged animals or perform, or cause to be performed, any other unnatural sexual act.

(2) If a person has sexual intercourse with a cow, he shall be punished with a term of imprisonment of two years, and if a person has sexual intercourse with another four-legged animal other than a cow, he shall be punished with a term of imprisonment of six months.

(3) If a woman causes a four-legged animal to perform a sexual act with her, she shall be punished with a term of imprisonment of one year or must pay a fine of 500 rupees.

(4) Any person who performs, or causes (permits) to be performed, an unnatural sexual act, shall be punished with a term of imprisonment of one year or a fine of 5,000 rupees.

(5) The offence shall become statute-barred in one year if no complaint is submitted.”

## **Niger**

**Male/Male** Not illegal as such      **Female/Female** Not illegal as such

Penal Code of 1961, as amended in 1993<sup>73</sup>

Article 275: “A public nuisance is caused by any material act that is contrary to good morals committed in a situation in which it has been witnessed or may have been witnessed by a third party likely to be offended by it.”

Article 276: “Any person who causes a public nuisance shall be punished with a term of imprisonment of between three months and three years and a fine of between 10,000 and 100,000 francs.”

Article 277: “Any lewd act committed directly on a person of either sex shall constitute a crime against (public) decency.”

Article 278. “Any offence against (public) decency that is committed and any attempt to commit such an offence without force on the person of a child under thirteen years of age of either sex shall be punished with a term of imprisonment of between two months and ten years and a fine of between 20,000 and 200,000 francs.”

## **Nigeria**

**Male/Male** Illegal      **Female/Female** Legal\*

Criminal Code Act, Chapter 77, Laws of the Federation of Nigeria 1990<sup>74</sup>

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.”

Section 352. “Any person who assaults another with intent 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 353. “Any person who unlawfully and indecently assaults any male person 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, criminalizing 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 instated such laws are:<sup>75</sup>

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

(The year in bracket refers to when the law was adopted.)

Here is an example of one of these Penal Codes:

Zamfara State of Nigeria - Shari'ah Penal Code Law, 2000 (entered into operation on 27th day of January, 2000.)<sup>76</sup>

## CHAPTER VIII

### Sodomy (Liwat)

#### Section 130. Sodomy defined

“Whoever has carnal intercourse against the order of nature with any man or woman is said to commit the offence of sodomy: Provided that whoever is compelled by the use of force or threats or without his consent to commit the act of sodomy upon the person of another or be the subject of the act of sodomy, shall not be deemed to have committed the offence.”

#### Section 131. Punishment for Sodomy

“Whoever commits the offence of sodomy shall be punished:-

- (a) with caning of one hundred lashes if unmarried, and shall also be liable to imprisonment for the term of one year; or
- (b) if married with stoning to death (rajm).

EXPLANATION: Mere penetration is sufficient to constitute carnal intercourse necessary to the offence of sodomy.”

### Lesbianism (Sihag)

#### Section 134. Lesbianism defined

“Whoever being a woman engages another woman in carnal intercourse through her sexual organ or by means of stimulation or sexual excitement of one another has committed the offence of Lesbianism.”

#### Section 135. Punishment for Lesbianism

“Whoever commits the offence of lesbianism shall be punished with caning which may extend to fifty lashes and in addition be sentenced to a term of imprisonment which may extend to six months.

EXPLANATION: The offence is committed by the unnatural fusion of the female sexual organs and or by the use of natural or artificial means to stimulate or attain sexual satisfaction or

excitement.”

#### Gross Indecency

##### Section 138. Acts of Gross Indecency

“Whoever commits an act of gross indecency upon the person of another without his consent or by the use of force or threats compels a person to join with him in the commission of such act shall be punished with caning of forty lashes and shall also be liable to imprisonment for a term of one year and may also be liable to fine: Provided that a consent given by a person below the age of fifteen years to such an act when done by his teacher, guardian or any person entrusted with his care or education shall not be deemed to be a consent within the meaning of this section.”

### **Niue (New Zealand associate)**

<b>Male/Male</b>	<b>Illegal</b>	<b>Female/Female</b>	<b>Legal</b>
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Niue Act 1966 (also applied to Tokelau)<sup>77</sup>

#### Section 170. Buggery -

“(1) Every one is liable to imprisonment for 10 years who commits buggery either with a human being or with any other living creature.

(2) This offence is complete upon penetration.

Cf. 1915, No. 40, s. 206”

#### Section 171. Attempted buggery and indecent assaults on males -

“(1) Every one is liable to imprisonment for 5 years who-

(a) Attempts to commit buggery; or

(b) Assaults any person with intent to commit buggery; or

(c) Being a male, indecently assaults any other male person.

(2) It is no defence to a charge of indecent assault on a male person of any age that he consented to the act of indecency.

Cf. 1915, No. 40, s. 207”

Note that Niue is a New Zealand associate, and that the laws in Niue are only applicable to the Niue and in some cases to Tokelau, and not to New Zealand!

### **Oman**

<b>Male/Male</b>	<b>Illegal</b>	<b>Female/Female</b>	<b>Illegal</b>
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Penal Code, 1974<sup>78</sup>

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

## **Pakistan**

**Male/Male** Illegal **Female/Female** Legal

Penal Code (Act XLV of 1860)<sup>79</sup>

### 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."

## **Palau**

**Male/Male** Illegal **Female/Female** Legal

Palau National Code 1990; Penal Code<sup>80</sup>

Article 2803. "Sodomy on either males or females - up to 10 years imprisonment. (Title 17.2803)"

Based on the definition of sodomy in the other countries in the area, which only covers anal intercourse; this is probably the situation for Palau as well.

## **Panama**

**Male/Male** Illegal **Female/Female** Illegal

Decree No. 149, 1949<sup>81</sup>

Article 12. "Concealed prostitution, procuring, homosexuality [...] shall be punished with the penalties listed below: [...] c) for homosexuality: three months to one year of imprisonment or a fine of 50.00 to 500.00 USD."

## **Papua New Guinea**

**Male/Male** Illegal **Female/Female** Legal

Criminal Code 1974 (Consolidated in 2006)<sup>82</sup>

### Section 210. UNNATURAL OFFENCES.

"(1) A 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 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.”

## ***Qatar***

**Male/Male** Illegal **Female/Female** Illegal

The Penal Code (Act No. 11 of 2004)<sup>83</sup>

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.

## ***Saint Kitts and Nevis***

**Male/Male** Illegal **Female/Female** Legal

Offences against the Person Act<sup>84 85</sup>

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)<sup>86</sup>

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<sup>87</sup>

#### Section 146

Any person who "commits buggery [anal intercourse] with any other person" and any person who "commit buggery with him or her" is "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."

### ***São Tomé and Príncipe***

**Male/Male** Illegal

**Female/Female** Illegal

Penal Code of September 16, 1886, (Inherited from the Portuguese colonial era)<sup>88</sup>

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!

### ***Saudi-Arabia***

**Male/Male** Illegal

**Female/Female** Illegal

There is no codified Penal Law in Saudi-Arabia. Instead, the country applies the strict Islamic Sharia law. According to the interpretation sodomy is criminalized. 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. For conviction of sodomy, it must be proved either by confession of the culprit four times, or “testimony of four trustworthy Muslim men”. Moreover are all sexual relations outside of marriage illegal in Saudi-Arabia according to the Sharia law, including sexual relations between women.<sup>89</sup>

## Senegal

Male/Male Illegal Female/Female Illegal

Penal Code (LOI DE BASE N° 65-60 DU 21 JUILLET 1965 PORTANT CODE PENAL)<sup>90 91</sup>

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.”

Original French text:

Article 319:3. ”Sans préjudice des peines plus graves prévues par les alinéas qui précèdent ou par les articles 320 et 321 du présent Code, sera puni d'un emprisonnement d'un à cinq ans et d'une amende de 100.000 à 1.500.000 francs, quiconque aura commis un acte impudique ou contre nature avec un individu de son sexe. Si l'acte a été commis avec un mineur de 21 ans, le maximum de la peine sera toujours prononcé.”

## Seychelles

Male/Male Illegal Female/Female Legal

Criminal Code<sup>92</sup>

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<sup>93</sup>

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

## Singapore

Male/Male Illegal Female/Female Legal

Penal Code (Chapter 22) Revised Edition 1998<sup>94</sup>

Unnatural offences.

Section 377. “Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animals, shall be punished with imprisonment for life, or with imprisonment for a term which may extend to 10 years, and shall also be liable to fine.

Explanation.

Penetration is sufficient to constitute the carnal intercourse necessary to the offence described

in this section.”

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.”

## **Solomon Islands**

**Male/Male** Illegal

**Female/Female** Illegal

Laws of Solomon Islands (Revised Edition 1996), Penal Code [Cap 26]<sup>95</sup>

Unnatural offences

Section 160. “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.”

Attempts to commit unnatural offences

Section 161. “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.”

Indecent practices between persons of the same sex  
9 of 1990, s. 2

Section 162. “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.”

## **Somalia**

**Male/Male** Illegal

**Female/Female** Illegal

Penal Code, Decree No. 5/1962 (Effective April 3, 1964)<sup>96</sup>

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.”

### **Sri Lanka**

**Male/Male** Illegal **Female/Female** Illegal

Penal Code of 1883 No 2 (Cap. 19)<sup>97</sup>

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”)<sup>98</sup>

“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.”

### **Sudan**

**Male/Male** Illegal **Female/Female** Illegal

The Penal Code 1991 (Act No. 8 1991)<sup>99</sup>

#### 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.”

## Swaziland

Male/Male Illegal

Female/Female Unclear

“Sodomy - it is sexual intercourse per anus between two human males” - is prohibited as a common law offence.<sup>100</sup>

There are contradicting reports on if the common law prohibition also covers sexual acts between women. The ILGA World Legal Survey states that it covers both men and women<sup>101</sup>, but based on the common law prohibition on sodomy in other parts of Africa covering only “anal intercourse”, the information on female/female regulation is stated as unclear.

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 yet.<sup>102</sup>

## Syria

Male/Male Illegal

Female/Female Unclear

Penal Code of 1949<sup>103</sup>

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

## Tanzania

Male/Male Illegal

Female/Female Legal\*

Penal Code of 1945 (As amended by the Sexual Offences Special Provisions Act, 1998)<sup>104</sup>

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.”

Note that this federal law does not cover sexual activities between women. However, in Zanzibar, such acts are criminalized. See below for more details.

Zanzibar Penal Code of 1934 (As amended 2004. Amendments effective in August, 2004)<sup>105 106</sup>

"A person who will be convicted of sodomy will be liable to 25 years imprisonment."

Hereto, the amendment prescribes penalties of up to seven years imprisonment or a fine of 700,000 shillings for sexual acts between women.

## **Togo**

**Male/Male** Illegal **Female/Female** Illegal

Penal Code of 13 August 1980<sup>107</sup>

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

(Authors translation)

Original French text:

Art. 88 - "Sera puni d'un emprisonnement d'un à trois (03 ) ans et d'une amende de 100 000 à 500 000 francs quiconque aura commis un acte impudique ou contre nature avec un individu de son sexe."

## **Tokelau (New Zealand associate)**

**Male/Male** Illegal **Female/Female** Legal

Niue Act 1966<sup>108</sup>

Section 170. Buggery -

"(1) Every one is liable to imprisonment for 10 years who commits buggery either with a human being or with any other living creature.

(2) This offence is complete upon penetration.

Cf. 1915, No. 40, s. 206"

Section 171. Attempted buggery and indecent assaults on males -

"(1) Every one is liable to imprisonment for 5 years who-

(a) Attempts to commit buggery; or

(b) Assaults any person with intent to commit buggery; or

(c) Being a male, indecently assaults any other male person.

(2) It is no defence to a charge of indecent assault on a male person of any age that he consented to the act of indecency.

Cf. 1915, No. 40, s. 207"

Note that according to the Tokelau Crimes Regulations 1975, parts V, VI and VII of Niue Act 1966 (which includes sections 170 and 171) is applicable to Tokelau as well, as Tokelau does not have its own Penal Code.<sup>109</sup> Also note that laws applicable to Tokelau, being a New Zealand associate, laws in Tokelau are not applicable to New Zealand!

## **Tonga**

**Male/Male** Illegal **Female/Female** Legal

Laws of Tonga, Criminal Offences [Cap 18] 1988 Edition<sup>110</sup>

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.)

Assault with intent to commit sodomy.

Section 137. “It is an offence for a person to assault another person with intent to commit sodomy.” (Inserted 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.”

## **Trinidad and Tobago**

**Male/Male** Illegal **Female/Female** Illegal

Sexual Offences Act, No. 27 of 1986 (Modified by Sexual Offences (Amendment) Act No. 31 of 2000)<sup>111</sup>

Section 13 “Buggery”

Buggery committed by an adult on another adult is punished with 25 years imprisonment.

Section 16 “Abduction on a female”

Sexual acts between women are punished with imprisonment for ten years for a first offence and to imprisonment for fifteen years for a subsequent offence.

## **Tunisia**

**Male/Male** Illegal **Female/Female** Illegal

Penal Code of 1913 (as modified)<sup>112</sup>

Article 230. “The sodomy, that is not covered by any of the other previous articles, is punished

with imprisonment for three years”

(Authors translation)

Original French text:

Article 230. - “La sodomie, si elle ne rentre dans aucun des cas prévus aux articles précédents, est punie de l'emprisonnement pendant trois ans.”

### **Turkish Republic of Northern Cyprus**

Male/Male Illegal Female/Female Unclear

“Crimes against nature” is criminalized with a penalty of up to 14 years imprisonment. There are, however, plans to repeal the law.<sup>113</sup>

### **Turkmenistan**

Male/Male Illegal Female/Female Legal

Criminal Code of 1997 (Effective January 1, 1998)<sup>114</sup>

Article 135. Muzhelozhstvo

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

(Authors translation)

Russian text:

”Статья 135. Мужеложство

(1) Мужеложство, то есть половое сношение мужчины с мужчиной, наказывается лишением свободы на срок до двух лет.”

### **Tuvalu**

Male/Male Illegal Female/Female Legal

Laws of Tuvalu, Penal Code [Cap 8] Revised Edition 1978<sup>115</sup>

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.”

## ***Uganda***

**Male/Male** Illegal **Female/Female** Illegal

The Penal Code Act of 1950 (Chapter 120) (as amended)<sup>116</sup>

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.”

## ***United Arab Emirates***

**Male/Male** Illegal **Female/Female** Illegal

Federal Penal Code (FPC, Law No. 3 of 1987) (Effective March 21, 1988)<sup>117</sup>

Article 354. “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.”

Sexual acts between women are not prohibited as such, but adultery is as well as all other sexual contacts outside of heterosexual marriage.<sup>118</sup>

## **Uzbekistan**

**Male/Male** Illegal

**Female/Female** Legal

Criminal Code of 1994 (Effective April 1, 1995) (As amended to 1999)<sup>119</sup>

Article 120. Besoqolbozlik\* (Homosexual Intercourse)

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

## **Western Samoa**

**Male/Male** Illegal

**Female/Female** Legal

Crimes Ordinance 1961, Laws of Western Samoa, 1996 Reprint<sup>120</sup>

Section 58D. Indecency between males-

“(1) Every one 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) of this section, 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.”

Cf. 1961, No. 43, s. 141 (N.Z.)

Section 58E. 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 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.”

Section 58G. Attempts to commit sodomy or bestiality-

“Every one is liable to imprisonment for a term not exceeding 5 years who-

(a) Attempts to commit sodomy or bestiality; or

(b) Assaults any person with intent to commit sodomy.”

Cf. 1961, No. 13, s. 48

## Yemen

Male/Male Illegal

Female/Female Illegal

Penal Code 1994<sup>121</sup>

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."

## Zambia

Male/Male Illegal

Female/Female Legal

The Penal Code Act, 1995 Edition (Revised)<sup>122</sup>

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 [CHAPTER 9:23] Act 23/2004<sup>123</sup> (Effective July 8, 2006)

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.”

# LGBTI rights global overview

The year in brackets refers to the year when the reform came into force.

## Homosexual acts legal

Albania (1995)	Andorra	Argentina (1887)	Armenia (2003)	Australia
Austria (1971)	Azerbaijan (2000)	Bahamas (1991)	Belarus (1994)	Belgium (1795)
Bolivia	Bosnia-Herz. (1998)	Brazil (1831)	Bulgaria (1968)	Burundi
Cambodia	Canada (1969)	Central African Rep.	Cape Verde (2004)	Chile (1998)
China	Colombia (1981)	Congo	Côte d'Ivoire	Croatia (1977)
Cuba (1979)	Cyprus (1998)	Czech Republic (1962)	Denmark (1933)	Dominican Rep.
Ecuador (1997)	El Salvador	Equatorial-Guinea	Estonia (1992)	Fiji (2005)
Finland (1971)	France (1791)	Gabon	Georgia (2000)	Germany (1969) <sup>124</sup>
Greece (1951)	Guatemala	Haiti	Honduras	Hungary (1962)
Iceland (1940)	Ireland (1993)	Israel (1988)	Italy (1890)	Japan (1882)
Jordan (1951)	Kazakhstan (1998)	Kosovo (1994)	Kyrgyzstan (1998)	Laos
Latvia (1992)	Liechtenstein (1989)	Lithuania (1993)	Luxembourg (1795)	Macedonia (1996)
Madagascar	Mali	Malta (1973)	Marshall Islands (2005)	Mexico (1872)
Micronesia	Moldova (1995)	Monaco (1793)	Mongolia	Montenegro (1977)
Netherlands (1811)	Netherlands Antilles	New Zealand (1986)	Nicaragua (2008)	North Korea
Norway (1972)	Paraguay	Peru (1924)	Philippines	Poland (1932)
Portugal (1983)	Puerto Rico (US associate) (2005)	Romania (1996)	Russia (1993)	Rwanda
San Marino (1865)	Serbia (1994)	Slovakia (1962)	Slovenia (1977)	South Africa (1998)
South Korea	Spain (1979)	Suriname	Sweden (1944)	Switzerland (1942)
Taiwan	Tajikistan (1998)	Thailand (1957)	Timor-Leste	Turkey (1858)
Ukraine (1991)	U. Kingdom (1967-) <sup>125</sup>	United States (2003) <sup>126</sup>	Uruguay (1934)	Vanuatu
Venezuela	Vietnam	West Bank (Palestinian authority)		

## Homosexual acts illegal

Afghanistan	Algeria	Angola	Antigua & Barbuda	Bahrain
Bangladesh	Barbados	Belize	Benin	Bhutan
Botswana	Brunei	Cameroon	Comoros	Cook Islands (New Zealand associate)
Djibouti	Dominica	Eritrea	Ethiopia	Gambia
Gaza (Palestinian authority)	Ghana	Grenada	Guinea	Guinea-Bissau
Guyana	India	Iran	Jamaica	Kenya
Kiribati	Kuwait	Lebanon	Lesotho	Liberia
Libya	Malawi	Malaysia	Maldives	Mauritania
Mauritius	Morocco	Mozambique	Myanmar/Burma	Namibia
Nauru	Nepal	Nigeria	Niue (New Zealand associate)	Oman
Pakistan	Palau	Panama	Papua New Guinea	Qatar
St Kitts & Nevis	St Lucia	St Vincent & the Gren.	São Tomé & Princ.	Saudi-Arabia
Senegal	Seychelles	Sierra Leone	Singapore	Solomon Islands
Somalia	Sri Lanka	Sudan	Swaziland	Syria
Tanzania	Togo	Tokelau (New Zealand associate)	Tonga	Trinidad & Tobago
Tunisia	Turkish Republic of Northern Cyprus	Turkmenistan	Tuvalu	Uganda
U. Arab Emirates	Uzbekistan	Western Samoa	Yemen	Zambia
Zimbabwe				

## Homosexual acts punishable with death penalty

Iran  
United Arab  
Emirates

Mauritania  
Yemen

Nigeria<sup>127</sup>

Saudi-Arabia

Sudan

## Homosexual acts not illegal as such, but not entirely legal either (See each country section above for more information)

Burkina Faso  
Iraq

Costa Rica  
Niger

Dem. Rep of Congo

Egypt

Indonesia

## Legal status of homosexual acts unknown

Chad

## Prohibition of discrimination in employment based on sexual orientation

Andorra (2005)  
Canada (1996)  
Czech Rep. (2001)  
Georgia (2006)  
Israel (1992)  
Luxembourg (1997)  
New Zealand (1994)  
Romania (2000)  
Spain (1996)

Austria (2004)  
Colombia (2007)  
Denmark (1996)  
Germany (2006)  
Italy (2003)  
Malta (2004)  
Nicaragua (2008)  
Serbia (2005)  
Sweden (1999)

Belgium (2003)  
Costa Rica (1998)  
Estonia (2004)  
Greece (2005)  
Kosovo (2004)  
Mexico (2003)  
Norway (1998)  
Slovakia (2004)  
Taiwan (2007)

Bosnia-Herz. (2003)  
Croatia (2003)  
Finland (1995)  
Hungary (2004)  
Latvia (2006)  
Mozambique (2007)  
Poland (2004)  
Slovenia (1998)  
United Kingdom  
(2003)<sup>128</sup>

Bulgaria (2004)  
Cyprus (2004)  
France (1985)  
Ireland (1999)  
Lithuania (2003)  
Netherlands (1992)  
Portugal (2003)  
South Africa (1995)  
Venezuela (1999)

Australia: Capital Territory (1992), New South Wales (1983), Northern Territory (1993), Queensland (1992), South Australia (1986), Tasmania (1999), Victoria (1996), Western Australia (2002)

Brazil: Bahia (1997), Federal District (2000), Minas Gerais (2002), Paraíba (2003), Rio de Janeiro (2001), Rio Grande do Sul (2002), Santa Catarina (2003), Sao Paulo (2001)

United States: California (1993), Colorado (2007), Connecticut (1991), District of Columbia (1973), 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)

Such discrimination is also prohibited in a number of cities in other states in the USA, as well as cities in Argentina, Bolivia and Japan.

## Prohibition of discrimination in employment based on gender identity

Finland (2005)

Germany (2006)

United Kingdom  
(1999)<sup>129</sup>

Australia: Queensland (2003), Victoria (2000), all other states prohibit discrimination based on transsexuality

Canada: Northwest Territories (2004)

United States: California (2004), Colorado (2007), District of Columbia (2006), Illinois (2006), Iowa (2007), Maine (2005), Minnesota (1993), New Jersey (2007), New Mexico (2003), Oregon (2008), Rhode Island (2001), Vermont (2007), Washington (2006)

## Constitutional prohibition of discrimination based on sexual orientation

Canada (1998) Ecuador (1998) Fiji (1997) Portugal (2004) South Africa (1997)  
Sweden (2003) Switzerland (2000)

Brazil: Alagoas (1989), Federal District, Mato Grosso (1989), Pará (2006), Santa Catarina (2002), Sergipe (1989)

## Hate crimes based on sexual orientation considered an aggravating circumstance

Andorra (2005) Belgium (2003) Canada (1996) Croatia (2006) Estonia (2006)  
France (2003) Lithuania (2003) Luxembourg (1997) Netherlands (1992) New Zealand (2002)  
Nicaragua (2008) Portugal (2007) Puerto Rico (2005) Spain (1996) Sweden (2002)  
United Kingdom (2005)<sup>130</sup> Uruguay (2003)

United States: Arizona (1995), California (1988), Colorado (2005), Connecticut (1987), Delaware (1997), District of Columbia (1990), 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)

## Hate crimes based on gender identity considered an aggravating circumstance

United States: California (1999), Colorado (2005), Connecticut (2004), District of Columbia (1990), Hawaii (2003), Maryland (2005), Missouri (1999), New Mexico (2003), Vermont (1999)

## Marriage open for same-sex couples

Belgium (2003) Canada (2005) Netherlands (2001) Spain (2005) South Africa (2006)

United States: Massachusetts (2004)

## Law on registered partners offering same-sex partners most or all rights of marriage

Denmark (1989) Finland (2002) Germany (2001) Iceland (1996) New Zealand (2005)  
Norway (1993) Sweden (1995) Switzerland (2007) United Kingdom (2005)

Australia: Tasmania (2004)

United States: California (2000), Connecticut (2004), New Hampshire (2008), New Jersey (2007), Oregon (2008), Vermont (2000), Washington (2007)

## Law on registered partners offering same-sex partners some rights of marriage

Andorra (2005) Czech Republic (2006) France (1999) Luxembourg (2004) Slovenia (2006)  
Uruguay (2008)

Argentina: Buenos Aires (2003)

Mexico: Coahuila (2007), Federal District (2007)

United States: District of Columbia (1992), Hawaii (1997), Maine (2004) as well as around 100 local municipalities

## Law or court verdict offering same-sex partners a few or some rights of marriage, without a registry

Austria (2003)      Colombia (2007/2008)      Croatia (2003)      Hungary (1996)      Israel (1994-)  
Portugal (2001)

Australia: Capital Territory (1994), New South Wales (2002), Norfolk Island (2006), Northern Territory (2004), Queensland (1999, 2002), South Australia (2007), Victoria (2001), Western Australia (2002)

## Joint adoption by same-sex couples legal

Andorra (2005)      Belgium (2006)      Iceland (2006)      Israel (2008)      Netherlands (2001)  
South Africa (2002)      Sweden (2003)      United Kingdom (2005)<sup>131</sup>

Australia: Capital Territory (2004), Western Australia (2002)

Canada: British Columbia (1996), Manitoba (2002), New Brunswick (2008), Newfoundland & Labrador (2003), Ontario (2000), Quebec (1999), Saskatchewan (2001),

United States: Joint adoption by same-sex couples is prohibited in Florida, Mississippi and Utah. The other states allow individual LGB people to adopt, and some of them also allow joint adoption by same-sex couples.

## Specific law on Gender recognition after Gender Reassignment treatment

Belgium (2007)      Finland (2003)      Germany (1981)      Italy (1982)      Japan (2004)  
Netherlands (1985)      New Zealand (1995)      Romania (1996)      South Africa (2004)      Spain (2007)  
Sweden (1972)      Turkey (1988)      United Kingdom (2005)

Australia: Capital Territory (1998), New South Wales (1996), Northern Territory (1997), Queensland (2003), South Australia (1988), Tasmania (1999), Victoria (2005), Western Australia (2001)

Moreover, a number of other countries, including the USA, Canada and most European countries, recognise the “new” gender after Gender Reassignment treatment through general statutes or case-law.

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## Notes

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- <sup>17</sup> Loi N° - 082 P/A.F - Loi 95-012/AF portant Code penal.
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- <sup>31</sup> Human Rights and Legal Position of Palestinian “Collaborators”.
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- <sup>49</sup> Gaykenya.com.
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- <sup>51</sup> German Bundestag; Printed Paper 16/3597, p. 15.
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- <sup>55</sup> 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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- <sup>57</sup> Consultation Paper, Malawi Law Commission.
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- <sup>59</sup> Convictions for sodomy follow unfair trials.
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- <sup>88</sup> São Tomé and Príncipe: Oil and tourism threaten to treble rate of HIV infect in five years.
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- <sup>95</sup> Laws of Solomon Islands; Penal Code [Cap 26].
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- <sup>97</sup> Laws of Sri Lanka; Chapter 22; Penal Code.
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- <sup>102</sup> Swaziland Government warns homosexuals or sodomy are liable to imprisonment.
- <sup>103</sup> German Bundestag. Printed Paper 16/3597, p. 27.
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- <sup>107</sup> Code Pénal (Togo).
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- <sup>120</sup> Laws of Western Samoa; Crimes Ordinance 1961.
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- <sup>122</sup> Zambian Laws: Volume 7.
- <sup>123</sup> Criminal Law (Codification and Reform) Act [Chapter 9:23] Act 23/2004 (Zimbabwe).
- <sup>124</sup> Homosexual acts were decriminalized in West-Germany in 1969, and in East-Germany in 1968.

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<sup>125</sup> Decriminalized in England & Wales in 1967, in Scotland 1981, Northern Ireland 1982, Jersey in 1990, Gibraltar 1993, Bermuda in 1994, and Anguilla, British Virgin Islands, Cayman Islands, Montserrat, Turks & Caicos Islands in 2001.

<sup>126</sup> On June 23, 2003 the Supreme Court ruled that sodomy laws are illegal. Before that, around 30 of the states had decriminalized homosexual acts, as well as American Samoa (1980), American Virgin Islands (1985), Guam (1978) and Northern Mariana Islands (1983).

<sup>127</sup> Only in those states where Sharia laws are enacted. See main article on Nigeria.

<sup>128</sup> Similar laws also exist in Gibraltar (2004) and Isle of Man (2007).

<sup>129</sup> The law only covers discrimination based on gender reassignment, and not gender identity.

<sup>130</sup> The law only applies to England and Wales.

<sup>131</sup> The law only applies to England and Wales.