

Legal recognition of homosexual orientation in the countries of the world

A chronological overview with footnotes

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This is very much a work in progress. It needs completion, it will contain inaccuracies, and no doubt will have missed certain (recent) developments. Corrections and additions are always welcome, as are emails confirming the accuracy of the information provided about a particular jurisdiction. An improved version of this draft will be published in April or May 2009 at www.emmeijers.nl/waaldijk (the author's website at Leiden Law School). So please consider sending in by mid April any corrections and additions (if possible with references to sources that are both available online and reliable). The author can be reached at c.waaldijk@law.leidenuniv.nl.

Robert Leckey and Robert Whillans have contributed with information on Canada, Lucas Paoli Itaborahy with searching and interpreting information in Spanish and Portuguese, and Freeke Mulder with finding and interpreting information on many countries. This overview builds on the work of other chroniclers of sexual orientation laws, including Helmut Graupner, Daniel Ottosson, David Rayside, Nigel Warner, Robert Wintemute and many more at ILGA, at other non-governmental organisations, and beyond. To all of them, and to the many activists, lawyers, students and other experts who have shared information about developments in this constantly changing field of law, the author is deeply grateful.

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Contents

Introduction		3-5
Symbols used in the tables & Frequently cited sources		6-7
Africa		
Table 1	Southern African countries	8
Table 2	Central and Western African countries	9
Table 3	Northern and Eastern African countries	10
Table 4	Islands around Africa	11
America		
Table 5	Brazil (and its states)	12
Table 6	Other South American countries	13
Table 7	Mexico (and its states) and Central American countries	14
Table 8	Independent countries in the Caribbean	15
Table 9	Dependent island jurisdictions in the Caribbean and the American side of the Atlantic	16
Table 10	United States (plus District of Columbia and nineteen states with partnership recognition)	17
Table 11	United States (eighteen states without partnership recognition but with formal decriminalisation)	18
Table 12	United States (thirteen states without formal decriminalisation)	19
Table 13	Canada (and its provinces and territories)	20
Asia		
Table 14	The Middle East	21
Table 15	Central and Southern Asia	22
Table 16	Eastern and Southeastern Asia	23
Europe		
Table 17	The fifteen oldest Member States of the European Union	24
Table 18	The twelve newest Member States of the European Union	25
Table 19	The twenty other Member States of the Council of Europe (not Member States of the European Union)	26
Table 20	Other independent or dependent European jurisdictions (not Member States of the Council of Europe)	27
Oceania		
Table 21	Australia (and its states and territories)	28
Table 22	Other independent countries in Oceania	29
Table 23	Dependent jurisdictions in Oceania	30
Footnotes		31-80

Introduction

In almost all countries of the world the legal recognition of homosexual orientation is progressing – or at a stand still. Only in a few countries such legal recognition is diminishing. The overview on the following pages is based on the hypothesis that most countries, at different times and different paces, go through a more or less standard sequence of steps legally recognising homosexuality. Countries tend to first decriminalise homosexuality, then include sexual orientation in their anti-discrimination legislation, before finally giving (some) legal recognition to same-sex partnership and family. This hypothesis was first developed in my article ‘Standard sequences in the legal recognition of homosexuality – Europe’s past, present and future’ (published in 4 *Australasian Gay & Lesbian Law Journal* June 1994, p. 50-72, full text available at <http://hdl.handle.net/1887/3624>). So it was a European hypothesis. The data collected in this overview, however, should help to assess whether it also applies to other parts of the world. At this stage, it is left to the reader to make that assessment.

In a way it is appropriate to use a European hypothesis to organise and present information about law & homosexuality. After all, for most parts of the world it have been European colonial empires that came and imposed their criminal law. When looking at the countries of the whole world (and this data set makes that possible) one cannot fail to notice the imprint that Roman, Portuguese, Spanish, British, French, Russian and other empires (and the Islam) have left on the development of laws with respect to homosexuality, with for example the British leaving a trail of criminalisation around the world and for example the French a trail of decriminalisation (see also my article ‘Civil developments: patterns of reform in the legal position of same-sex partners in Europe’, 17 *Canadian Journal of Family Law* 2000, p. 62-88, full text available at <http://hdl.handle.net/1887/5228>). With the current spread of anti-discrimination legislation explicitly covering sexual orientation, and of all kinds of legislation and litigation about same-sex partnership, there is less of a European hegemony. For example, the first three countries to have an explicit constitutional prohibition of sexual orientation discrimination, are South Africa, Ecuador and Fiji, only recently joined by Portugal, and very recently Bolivia. Now, the human rights of privacy, equality and family are leaving their imprint in more and more countries.

The information in this overview is structured according to the sequence of steps suggested by the hypothesis mentioned above. In each of four fields two questions are being asked for every country (and its provinces):

1. *decriminalisation*
2. *anti-discrimination*
3. *partnership recognition*
4. *family recognition*

It is submitted that these four are indeed key focus fields both of activists wanting ‘something’ legal to be done for homosexual orientation, and of governments doing or refusing to do ‘something’ legal about it. There is perhaps only one other field that has been getting a similar legal focus: that of freedom of expression, freedom of association and freedom of assembly. On the timescale of the hypothesis mentioned above, this fifth area should probably be seen as step zero (although clearly the five steps would often overlap). It would have been great to include that area, too. However, there is not much information available, about since when exactly homosexual orientation has been allowed to speak its name, since when lesbian women and gay men have been allowed to start their own organisations, and since when public gatherings (and parades) of homosexuals have been legally possible. Therefore that area has been left out of this overview.

For each of the four fields two questions have been asked. Of course many more could have been asked (for example about the (de-) criminalisation of homosexual sex in public or for pay; about provisions against discriminatory hate crimes; about admission to the armed forces; about specific rights and obligations of partnership and marriage; about joint parental authority or joint parental status), but that would have rendered the overview too bulky, and the research needed to draft it too time-consuming.

The eight chosen questions (and some of their difficulties) are:

- 1a. *Are homosexual acts between adults legal in criminal law?*
(In many countries the criminalisation and decriminalisation only explicitly refer to sex between men, and in others also refer to women. It has not always been possible to assess the relevance of the various penal provisions for women.)
- 1b. *After decriminalisation, are age limits now equal for homosexual and heterosexual acts?*
(This refers to age limits for consensual sex outside relationships of dependency.)
- 2a. *Is sexual orientation discrimination in employment explicitly forbidden in legislation?*
(If in a case of sexual orientation discrimination courts are ready to apply a more general prohibition of discrimination, that is not enough for a positive answer here. A term like 'sexual orientation' needs to figure in some piece of legislation.)
- 2b. *Is such discrimination in relation to goods/services explicitly forbidden in legislation?*
(Included in the notion of goods and services are education, health care and housing.)
- 3a. *Is there any recognition in law of non-registered cohabitation by same-sex partners?*
(This is sometimes referred to as *de facto* living together, or common law marriage. It is difficult to notice the existence of all the different laws that have started to provide some recognition for this. For many jurisdiction this had to be left blank.)
- 3b. *Can same-sex couples enter into a registered partnership or civil union?*
(The terms civil union and registered partnership are used as synonyms, referring to a form of partnership that – like marriage – is created by a formal act of registration resulting in some or all of the rights and obligations of marriage.)
- 4a. *Is joint and/or second-parent adoption by same-sex partner(s) legally possible?*
(A possibility for a lesbian woman or gay man to adopt as an individual, is not enough for a positive answer here. This is probably the least documented of the eight questions, so for many jurisdictions this had to be left blank.)
- 4b. *Can same-sex couples get legally married?*
(Leaving aside the question whether they can get married outside their own jurisdiction and be recognised at home.)

After each of these, the next question always is: *If so, since when?* In the tables of this overview, positive answers are represented by a mention of the year (if known) in which the relevant legislation or court ruling took effect. Negative answers are represented by a simple dash (see the list of symbols used, below). The countries (and provinces) of each continent have been divided in smaller groups with something geographical and/or political in common, so as to fit them into a one page table. The further (and sooner) a country has progressed along the sequence of the eight questions (i.e. the hypothesis), the higher its place in its table.

This overview is limited in several other ways, too. Apart from being a work in progress with still many errors, gaps, ambiguities and even contradictions, some limitations are intentional. The aim of covering all countries and dependent jurisdictions of the world, seemed only realistic if the overview was to remain confined to legal recognition (thus excluding social aspects, and not even including socio-legal data concerning the observance and enforcement of the various laws, or about the actual use that is being made of them). A further limitation has been to only focus on parliamentary legislation, government regulation, and decisions of supreme courts. So normally neither administrative policy and guidelines, nor decisions of lower courts have been taken into account. (And for the purposes of columns 2a and 2b no case law at all has been used.) National and provincial law have been included (the latter for federal countries such as Australia, Canada, Mexico, Brazil, Argentina and the USA), but not the local law of cities, and not any international or supranational law (which have been fairly well documented elsewhere.)

Another limitation relates to homosexual orientation. The overview does not aim to give a picture of laws relating to different-sex relationships, straight individuals and heterosexual activity. Issues of gender identity and expression have also been left aside, for three reasons. Many (but certainly not all) of the specific legal aspects of gender identity and expression are rather different than those of homosexual orientation. Secondly, the amount of easily searchable legal information about transgender issues is much smaller. And finally, the author does not consider himself to be an expert beyond the field of law & homosexuality. Homosexual orientation is taken here in its wide sense as referring not only to homosexual preference and attraction, but also to having sex with someone of the same sex, and to (same-sex) partnership: being it, doing it, living it.

One of the aims of this overview was to produce a more reliable and better documented set of global data than has been available so far. Therefore it was vital to be critical about what sources to rely on. At the same time, often the only sources readily available were not necessarily reliable. In this overview many sources (especially anonymous sources without adequate footnoting, such as Wikipedia, Amnesty International, Avert, Behind the Mask, and press reports) are not being considered as conclusive. Their information (if incorporated at all) is accompanied by question marks in the tables and by #### in the footnotes, unless of course it could be confirmed by other sources. The excellent overviews by Ottosson, Graupner, Wintemute and Rayside have been taken as reliable sources, unless they were contradicted by other sources. Specific academic and legal publications about specific countries have normally be relied on. Efforts have been made to provide web links to the original texts of legislation and case law (if available), but this could not yet be done for all countries (also because the combined linguistic skills of the five people who have so far contributed to this overview are limited). Probably a lot of the remaining errors, ambiguities, gaps and contradictions could be removed or solved by corresponding with legal experts, activists, diplomats and government officials all over the world, but that immense task has not yet been undertaken.

This first more or less complete draft is now being presented, so as to invite other people in the field of sexual orientation law to come up with corrections and additions, and send these to c.waaldijk@law.leidenuniv.nl. Improved versions will be published at www.emmeijers.nl/waaldijk.

Symbols used in the tables

1993	yes, since this year the relevant legislation or court ruling took effect
-	no, there is no legislation and no court ruling providing for this
yes	yes, there is legislation or a court ruling providing for this, but it is unclear since when
[1993]	yes, but only part of the country is covered by the relevant law
in prep.	no, but legislation is in preparation or not yet in force, or a court case is pending
not appl.	the question is not applicable
never crim.	homosexuality was never criminalised (please note that no jurisdiction was found, so far, where this would apply)
1993?	the information (about the year or about the content of the law) has not been confirmed
?	information is contradictory or not available
###	(in the footnotes) additional information wanted (if you have any, please email the author at c.waaldijk@law.leidenuniv.nl)

Frequently cited sources

In the footnotes a shortened citation (the one in bold print) has been used for the following sources:

Amnesty International 2006

Amnesty International, *Sexual Minorities and the Law: A World Survey* (updated July 2006), available at www.ai-lgbt.org/status_worldwide.htm.

Avert

Worldwide ages of consent, published by the UK based international AIDS charity AVERT, at www.avert.org/aofconsent.htm.

Behind the Mask

Behind the Mask, a website magazine on lesbian and gay affairs in Africa, www.mask.org.za.

Graupner 1997

Helmut Graupner, *Sexualität, Jugendschutz und Menschenrechte, Teil 2*, Frankfurt: Peter Lang 1997 (see www.peterlang.com/index.cfm?VID=31790&vLang=E&vHR=1&vUR=2&vUUR=8&vNoHB).

Graupner 2005

Helmut Graupner, 'Sexual Consent: The Criminal Law in Europe and Outside of Europe', in: H. Graupner & V.L. Bullough (eds.), *Adolescence, Sexuality & the Criminal Law*, New York: Haworth Press 2005, p. 111-171 (earlier version, of 2002, available at <http://members.aon.at/graupner/documents/Graupner-paper-kn-oFN.pdf>).

Gupta 2008

Alok Gupta, *This Alien Legacy – The Origins of “Sodomy” Laws in British Colonialism*, New York: Human Rights Watch 2008 (available at www.hrw.org/en/reports/2008/12/17/alien-legacy-0).

Homophobia & Discrimination 2008

Homophobia and Discrimination on Grounds of Sexual Orientation in the EU Member States, Part I, Vienna: European Union Agency for Fundamental Rights 2008 (Legal Analysis by Olivier De Schutter, plus 27 legal country reports by different authors, published at http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=3fb38ad3e22bb&contentid=4868b375493cf).

Ottosson 2006

Daniel Ottosson, *LGBT world legal wrap up survey*, Brussels: ILGA 2006 (published at www.ilga-europe.org/europe/issues/international/lgbt_world_legal_wrap_up_survey_november_2006).

Ottosson 2008

Daniel Ottosson, *State-sponsored Homophobia – A world survey of laws prohibiting same sex activity between consenting adults*, Brussels: ILGA 2008 (published at www.ilga.org/statehomophobia/ILGA_State_Sponsored_Homophobia_2008.pdf).

Rayside 2008

David Rayside, *Queer Inclusions, Continental Divisions – Public Recognition of Sexual Diversity in Canada and the United States*, Toronto: University of Toronto Press 2008 (see www.utppublishing.com/pubstore/merchant.ihtml?pid=9026&step=4; searchable at www.books.google.com).

Reding 2003

Andrew Reding, *Sexual Orientation and Human Right in the Americas*, World Policy Institute 2003 (available at www.worldpolicy.org/projects/globalrights/gayindex.html).

Rydström & Mustola 2007

Jens Rydström & Kati Mustola (eds.), *Criminally Queer, Homosexuality and Criminal Law in Scandinavia 1842-1999*, Amsterdam: Aksant 2007 (see www.aksant.nl/boeken/boek_634.asp).

Waaldijk 2005

Kees Waaldijk, *More or less together: Levels of legal consequences of marriage, cohabitation and registered partnership for different-sex and same-sex partners. A comparative study of nine European countries*, Paris: Institut national d'études démographiques 2005 (available at <http://hdl.handle.net/1887/12585>).

Waaldijk & Bonini-Baraldi 2004

Kees Waaldijk & Matteo Bonini-Baraldi (eds.), *Combating sexual orientation discrimination in employment: legislation in fifteen EU member states*, Report of the European Group of Experts on Combating Sexual Orientation Discrimination, about the implementation up to April 2004 of Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation, Leiden: Universiteit Leiden 2004 (available at <http://hdl.handle.net/1887/12587>).

Waaldijk & Bonini-Baraldi 2006

Kees Waaldijk & Matteo Bonini-Baraldi, *Sexual orientation discrimination in the European Union: national laws and the employment equality directive*, The Hague: TMC Asser Press 2006 (see www.emmeijers.nl/experts; searchable at www.books.google.com).

Wikipedia

Wikipedia, the free encyclopedia, <http://wikipedia.org> (reference is made to the version of Wikipedia in the language of the article title entry).

Wintemute 2001

Robert Wintemute, 'Appendix I – Same-Sex Partnership' and 'Appendix II – Sexual Orientation', in Wintemute & Andenaes 2001, p. 775-788.

Wintemute & Andenaes 2001

Robert Wintemute & Mads Andenaes (eds.), *Legal Recognition of Same-Sex Partnerships – A Study of National, European and International Law*, Oxford: Hart Publishing 2001 (see www.hart.oxi.net/books/details.asp?sc=1-84113-138-5; searchable at www.books.google.com).

Table 1: Southern African countries

	1a	1b	2a	2b	3a	3b	4a	4b
	Are homosexual acts between adults legal in criminal law? If so, since when?	After decriminalisation, are <i>age limits</i> now equal for homosexual and heterosexual acts? If so, since when?	Is sexual orientation discrimination in <i>employment</i> explicitly forbidden in legislation? If so, since when?	Is such discrimination in relation to <i>goods/services</i> explicitly forbidden in legislation? If so, since when?	Is there any recognition in law of non-registered <i>cohabitation</i> by same-sex partners? If so, since when?	Can same-sex couples enter into a <i>registered partnership</i> or <i>civil union</i> ? If so, since when?	Is joint and/or second-parent <i>adoption</i> by same-sex partner(s) legally possible? If so, since when?	Can same-sex couples get legally <i>married</i> ? If so, since when?
South Africa	1998 ¹	2007 ²	1993 ³	1993 ⁴	1996 ⁵	2006 ⁶	2002 ⁷	2006 ⁸
Mozambique	- ⁹	-	2007 ¹⁰	-		-		-
Lesotho	? ¹¹	-	-	-		-		-
Namibia	- ¹²	-	- ¹³	-		-		-
Malawi	- ¹⁴	-	-	-		-		-
Zimbabwe	- ¹⁵	-	-	-		-		-
Angola	- ¹⁶	-	-	-		-		-
Swaziland	- ¹⁷	-	-	-		-		-
Botswana	- ¹⁸	-	-	-		-		-
Zambia	- ¹⁹	-	-	-		-		-

Table 2: Central and Western African countries

	1a	1b	2a	2b	3a	3b	4a	4b
	Are homosexual acts between adults legal in criminal law?	After decriminalisation, are <i>age limits</i> now equal for homosexual and heterosexual acts?	Is sexual orientation discrimination in <i>employment</i> explicitly forbidden in legislation?	Is such discrimination in relation to <i>goods/services</i> explicitly forbidden in legislation?	Is there any recognition in law of non-registered <i>cohabitation</i> by same-sex partners?	Can same-sex couples enter into a <i>registered partnership</i> or <i>civil union</i> ?	Is joint and/or second-parent <i>adoption</i> by same-sex partner(s) legally possible?	Can same-sex couples get legally <i>married</i> ?
	If so, since when?	If so, since when?	If so, since when?	If so, since when?	If so, since when?	If so, since when?	If so, since when?	If so, since when?
Dem. Rep. of Congo	yes ²⁰	yes ²¹	-	-		-		-
Central African Rep.	yes ²²	yes ²³	-	-		-		-
Côte d'Ivoire	yes ²⁴	yes ²⁵	-	-		-		-
Mali	yes ²⁶	yes ²⁷	-	-		-		-
Congo	yes ²⁸	?	-	-		-		-
Rwanda	yes ²⁹	? ³⁰	-	-		-		-
Gabon	yes ³¹	- ³²	-	-		-		-
Burkina Faso	? ³³	? ³⁴	-	-		-		-
Burundi	? ³⁵	?	-	-		-		-
Equatorial Guinea	? ³⁶	?	-	-		-		-
Guinea-Bissau	? ³⁷	-	-	-		-		-
Guinea	- ³⁸	-	-	-		-		-
Gambia	- ³⁹	-	-	-		-		-
Liberia	- ⁴⁰	-	-	-		-		-
Ghana	- ⁴¹	-	-	-		-		-
Togo	- ⁴²	-	-	-		-		-
Cameroon	- ⁴³	-	-	-		-		-
Benin	- ⁴⁴	-	-	-		-		-
Nigeria	- ⁴⁵	-	-	-	- ⁴⁶	-		- ⁴⁷

Table 3: Northern and Eastern African countries

	1a	1b	2a	2b	3a	3b	4a	4b
	Are homosexual acts between adults legal in criminal law?	After decriminalisation, are <i>age limits</i> now equal for homosexual and heterosexual acts?	Is sexual orientation discrimination in <i>employment</i> explicitly forbidden in legislation?	Is such discrimination in relation to <i>goods/services</i> explicitly forbidden in legislation?	Is there any recognition in law of non-registered <i>cohabitation</i> by same-sex partners?	Can same-sex couples enter into a <i>registered partnership</i> or <i>civil union</i> ?	Is joint and/or second-parent <i>adoption</i> by same-sex partner(s) legally possible?	Can same-sex couples get legally <i>married</i> ?
	If so, since when?	If so, since when?	If so, since when?	If so, since when?	If so, since when?	If so, since when?	If so, since when?	If so, since when?
Egypt	–? ⁴⁸	?	-	-		-		-
Libya	–? ⁴⁹	?	-	-		-		-
Chad	? ⁵⁰	?	-	-		-		-
Niger	? ⁵¹	– ⁵²	-	-		-		? ⁵³
Morocco	– ⁵⁴	-	-	-		-		-
Western Sahara	– ⁵⁵	-	-	-		-		-
Tunisia	– ⁵⁶	-	-	-		-		-
Algeria	– ⁵⁷	-	-	-		-		-
Sudan	– ⁵⁸	-	-	-		-		-
Mauritania	– ⁵⁹	-	-	-		-		-
Djibouti	– ⁶⁰	-	-	-		-		-
Ethiopia	– ⁶¹	-	-	-		-		-
Somalia	– ⁶²	-	-	-		-		-
Eritrea	– ⁶³	-	-	-		-		-
Tanzania	– ⁶⁴	-	-	-		-		-
Kenya	– ⁶⁵	-	-	-		-		-
Senegal	– ⁶⁶	-	-	-		-		-
Uganda	– ⁶⁷	-	-	-		-		– ⁶⁸

Table 4: Islands around Africa

	1a	1b	2a	2b	3a	3b	4a	4b
	Are homosexual acts between adults legal in criminal law? If so, since when?	After decriminalisation, are age limits now equal for homosexual and heterosexual acts? If so, since when?	Is sexual orientation discrimination in employment explicitly forbidden in legislation? If so, since when?	Is such discrimination in relation to goods/services explicitly forbidden in legislation? If so, since when?	Is there any recognition in law of non-registered cohabitation by same-sex partners? If so, since when?	Can same-sex couples enter into a registered partnership or civil union? If so, since when?	Is joint and/or second-parent adoption by same-sex partner(s) legally possible? If so, since when?	Can same-sex couples get legally married? If so, since when?
Réunion (Fr)	yes ⁶⁹	yes ⁷⁰	-	-		-		-
Cape Verde	2004? ⁷¹	2004? ⁷²	-	-		-		-
Madagascar	yes ⁷³	?	-	-		-		-
Mayotte (Fr)	?	?	-	-		-		-
Saint Helena (UK)	?	?	-	-		-		-
Ascension (UK)	?	?	-	-		-		-
Tristan da Cunha (UK)	?	?	-	-		-		-
São Tomé & Príncipe	? ⁷⁴	?	-	-		-		-
Seychelles	- ⁷⁵	-	-	-		-		-
Mauritius	- ⁷⁶	-	-	-		-		-
Comoros	- ⁷⁷	-	-	-		-		-

Table 5: Brazil (and its states)

	1a	1b	2a	2b	3a	3b	4a	4b
	Are homosexual acts between adults legal in criminal law?	After decriminalisation, are <i>age limits</i> now equal for homosexual and heterosexual acts?	Is sexual orientation discrimination in <i>employment</i> explicitly forbidden in legislation?	Is such discrimination in relation to <i>goods/services</i> explicitly forbidden in legislation?	Is there any recognition in law of non-registered <i>cohabitation</i> by same-sex partners?	Can same-sex couples enter into a <i>registered partnership</i> or <i>civil union</i> ?	Is joint and/or second-parent <i>adoption</i> by same-sex partner(s) legally possible?	Can same-sex couples get legally <i>married</i> ?
	If so, since when?	If so, since when?	If so, since when?	If so, since when?	If so, since when?	If so, since when?	If so, since when?	If so, since when?
Brazil	1831 ⁷⁸	yes ⁷⁹	in prep. ⁸⁰	in prep. ⁸¹	2000 ⁸²	in prep. ⁸³	- ⁸⁴	-
-- Rio Grande do Sul			2002 ⁸⁵	2002 ⁸⁶		2004? ⁸⁷		-
-- Rio de Janeiro			2000 ⁸⁸	2000 ⁸⁹	2007 ⁹⁰	-		-
-- Mato Grosso			1989 ⁹¹	1989 ⁹²		-		-
-- Sergipe			1989 ⁹³	1989 ⁹⁴		-		-
-- Alagoas			1989 ⁹⁵	1989 ⁹⁶		-		-
-- Federal District			1993 ⁹⁷	1993 ⁹⁸		-		-
-- Sao Paulo			2001 ⁹⁹	2001 ¹⁰⁰		-		-
-- Santa Catarina			2002 ¹⁰¹	2002 ¹⁰²		-		-
-- Minas Gerais			2002 ¹⁰³	2002 ¹⁰⁴		-		-
-- Paraíba			2003 ¹⁰⁵	2003 ¹⁰⁶		-		-
-- Piauí			2004 ¹⁰⁷	2004 ¹⁰⁸		-		-
-- MatoGrosso doSul			2005 ¹⁰⁹	2005 ¹¹⁰		-		-
-- Maranhão			2006 ¹¹¹	2006 ¹¹²		-		-
-- Pará			2006 ¹¹³	2006 ¹¹⁴		-		-
-- Bahia			- ¹¹⁵	- ¹¹⁶		-		-
-- other 12 states			-	-		-		-

Table 6: Other South American countries

	1a	1b	2a	2b	3a	3b	4a	4b
	Are homosexual acts between adults legal in criminal law? If so, since when?	After decriminalisation, are age limits now equal for homosexual and heterosexual acts? If so, since when?	Is sexual orientation discrimination in employment explicitly forbidden in legislation? If so, since when?	Is such discrimination in relation to goods/services explicitly forbidden in legislation? If so, since when?	Is there any recognition in law of non-registered cohabitation by same-sex partners? If so, since when?	Can same-sex couples enter into a registered partnership or civil union? If so, since when?	Is joint and/or second-parent adoption by same-sex partner(s) legally possible? If so, since when?	Can same-sex couples get legally married? If so, since when?
French Guiana ¹¹⁷	1791?	1982	1985	1985	1993	1999	-	-
Uruguay	1934 ¹¹⁸	1934? ¹¹⁹	2003? ¹²⁰	2003? ¹²¹	2008 ¹²²	2008 ¹²³	in prep.? ¹²⁴	-
Ecuador	1997 ¹²⁵	yes ¹²⁶	1998 ¹²⁷	1998 ¹²⁸	2008 ¹²⁹	_130	_131	_132
Colombia	1981 ¹³³	yes ¹³⁴	? ¹³⁵	? ¹³⁶	2001? ¹³⁷	-	_138	_139
Argentina	1887 ¹⁴⁰	yes ¹⁴¹	_142	_143	2008 ¹⁴⁴	in prep.?		in prep. ¹⁴⁵
-- Buenos Aires			1996? ¹⁴⁶	1996? ¹⁴⁷	2001 ¹⁴⁸	2003 ¹⁴⁹		-
-- Rio Negro			-	-		2003? ¹⁵⁰		-
-- Cordoba			-	-	? ¹⁵¹	_152		-
-- Santa Fe			_153	_154	_155	-		-
-- other 20 provinces			-	-		-		-
Bolivia	yes ¹⁵⁶	?	2009 ¹⁵⁷	2009 ¹⁵⁸	_159	-		_160
Venezuela	yes ¹⁶¹	yes ¹⁶²	1999 ¹⁶³	-		-		-
Peru	1924 ¹⁶⁴	yes ¹⁶⁵	-	_166		-		-
Chile	1999 ¹⁶⁷	_168	in prep.?	in prep.?		in prep.? ¹⁶⁹		_170
Paraguay	yes ¹⁷¹	-	-	-		-		-
Suriname	1869 ¹⁷²	? ¹⁷³	-	-		-		-
Guyana	_174	-	_175	_176		-		-

Table 7: Mexico (and its states) and Central American countries

	1a	1b	2a	2b	3a	3b	4a	4b
	Are homosexual acts between adults legal in criminal law? If so, since when?	After decriminalisation, are <i>age limits</i> now equal for homosexual and heterosexual acts? If so, since when?	Is sexual orientation discrimination in <i>employment</i> explicitly forbidden in legislation? If so, since when?	Is such discrimination in relation to <i>goods/services</i> explicitly forbidden in legislation? If so, since when?	Is there any recognition in law of non-registered <i>cohabitation</i> by same-sex partners? If so, since when?	Can same-sex couples enter into a <i>registered partnership</i> or <i>civil union</i> ? If so, since when?	Is joint and/or second-parent <i>adoption</i> by same-sex partner(s) legally possible? If so, since when?	Can same-sex couples get legally <i>married</i> ? If so, since when?
Mexico	1872 ¹⁷⁷	yes ¹⁷⁸	2003 ¹⁷⁹	2003 ¹⁸⁰		-		-
-- Federal District		yes ¹⁸¹	1999 ¹⁸²	1999 ¹⁸³		2007 ¹⁸⁴		-
-- Coahuila		yes ¹⁸⁵	2006 ¹⁸⁶	2006 ¹⁸⁷		2007 ¹⁸⁸		-
-- Aguascalientes		yes ¹⁸⁹	2001? ¹⁹⁰	2001? ¹⁹¹		-		-
-- Chiapas		1998/2001 ¹⁹²	2001 ¹⁹³	2001 ¹⁹⁴		-		-
-- other 28 states		? ¹⁹⁵	?	?		-		-
Costa Rica	around 1880? ¹⁹⁶	1971? ¹⁹⁷	1998 ¹⁹⁸	1998 ¹⁹⁹	2003? ²⁰⁰	-	in prep.?	-
Nicaragua	2008 ²⁰¹	2008 ²⁰²	2008 ²⁰³	-		-		-
Panama	2008 ²⁰⁴	2008 ²⁰⁵	-	-		-		-
El Salvador	yes ²⁰⁶	yes ²⁰⁷	-	-		-		-
Guatemala	around 1880? ²⁰⁸	yes ²⁰⁹	-	-		-		-
Honduras	yes ²¹⁰	yes ²¹¹	-	-	_212	_213	_214	_215
Belize	_216	-	-	-		-		-

Table 8: Independent countries in the Caribbean

	1a	1b	2a	2b	3a	3b	4a	4b
	Are homosexual acts between adults legal in criminal law? If so, since when?	After decriminalisation, are age limits now equal for homosexual and heterosexual acts? If so, since when?	Is sexual orientation discrimination in employment explicitly forbidden in legislation? If so, since when?	Is such discrimination in relation to goods/services explicitly forbidden in legislation? If so, since when?	Is there any recognition in law of non-registered cohabitation by same-sex partners? If so, since when?	Can same-sex couples enter into a registered partnership or civil union? If so, since when?	Is joint and/or second-parent adoption by same-sex partner(s) legally possible? If so, since when?	Can same-sex couples get legally married? If so, since when?
Cuba	1979 ²¹⁷	1979? ²¹⁸	-	-	in prep. ²¹⁹	-		-
Dominican Republic	yes ²²⁰	yes	-	-		-		-
Haiti	yes ²²¹	yes	-	-		-		-
Bahamas	1991 ²²²	- ²²³	-	-		-		-
Antigua & Barbuda	- ²²⁴	-	-	-		-		-
Barbados	- ²²⁵	- ²²⁶	-	-		-		-
Dominica	- ²²⁷	-	-	-		-		-
Grenada	- ²²⁸	-	-	-		-		-
Jamaica	- ²²⁹	-	-	-		-		-
Saint Kitts & Nevis	- ²³⁰	-	-	-		-		-
Saint Lucia	- ²³¹	-	-	-		-		-
Saint Vincent & the Grenadines	- ²³²	-	-	-		-		-
Trinidad & Tobago	- ²³³	-	-	-		-		-

Table 9: Dependent island jurisdictions in the Caribbean and the American side of the Atlantic ²³⁴

	1a	1b	2a	2b	3a	3b	4a	4b
	Are homosexual acts between adults legal in criminal law?	After decriminalisation, are age limits now equal for homosexual and heterosexual acts?	Is sexual orientation discrimination in employment explicitly forbidden in legislation?	Is such discrimination in relation to goods/services explicitly forbidden in legislation?	Is there any recognition in law of non-registered cohabitation by same-sex partners?	Can same-sex couples enter into a registered partnership or civil union?	Is joint and/or second-parent adoption by same-sex partner(s) legally possible?	Can same-sex couples get legally married?
	If so, since when?	If so, since when?	If so, since when?	If so, since when?	If so, since when?	If so, since when?	If so, since when?	If so, since when?
Martinique (Fr) ²³⁵	1791?	1982	1985	1985	1993	1999	-	-
Guadeloupe (Fr) ²³⁶	1791?	1982	1985	1985	1993	1999	-	-
Saint Martin (Fr) ²³⁷	1791?	1982	1985	1985	1993	1999	-	-
Saint Pierre & Miquelon (Fr) ²³⁸	1791?	1982	1985	1985	1993	1999	-	-
Saint Barthélemy (Fr) ²³⁹	1878?	1982	1985	1985	1993	1999	-	-
Virgin Islands (USA)	1984 ²⁴⁰	1984 ²⁴¹	-	-		-		-
Netherlands Antilles	1869? ²⁴²	2000 ²⁴³	-	-		-	-	- ²⁴⁴
Aruba (NL)	1869? ²⁴⁵	2003 ²⁴⁶	-	-		-	-	- ²⁴⁷
Anguilla (UK)	2001 ²⁴⁸	-						-
British Virgin Islands	2001 ²⁴⁹	-						-
Cayman Islands (UK)	2001 ²⁵⁰	-						-
Montserrat (UK)	2001 ²⁵¹	-						-
Turks and Caicos Islands (UK)	2001 ²⁵²	-						-
Falkland Islands (UK)	yes ²⁵³	?	? ²⁵⁴	?	?	? ²⁵⁵	? ²⁵⁶	-
South Georgia & South Sandwich Islands (UK) ²⁵⁷	?	?	?	?	?	?	?	-
Puerto Rico (USA)	2005 ²⁵⁸	-	-	-		-		-

Table 10: United States (plus District of Columbia and nineteen states with partnership recognition)

	1a	1b	2a	2b	3a	3b	4a	4b
	Are homosexual acts between adults legal in criminal law?	After decriminalisation, are age limits now equal for homosexual and heterosexual acts?	Is sexual orientation discrimination in employment explicitly forbidden in legislation?	Is such discrimination in relation to goods/services explicitly forbidden in legislation?	Is there any recognition in law of non-registered cohabitation by same-sex partners?	Can same-sex couples enter into a registered partnership or civil union?	Is joint and/or second-parent adoption by same-sex partner(s) legally possible?	Can same-sex couples get legally married?
	If so, since when? 259	If so, since when? 260	If so, since when? 261	If so, since when? 262	If so, since when? 263	If so, since when? ²⁶⁴	If so, since when?	If so, since when?
USA (Federal)			-	-	-			
-- Massachusetts	1974 ²⁶⁵	1974 ²⁶⁶	1990? ²⁶⁷	1989?	1992?	-		2004 ²⁶⁸
-- Connecticut	1971	1971	1991	1991?	2000?	2005 ²⁶⁹		2008 ²⁷⁰
-- Distr. of Columbia	1992	1992	1973	1973?	?	1992		-
-- Hawaii	1973	1973	1991? ²⁷¹	1991?	?	1997		-
-- California	1976	1976	1979 ²⁷²	?	?	1999? ²⁷³		in prep. ²⁷⁴
-- Vermont	1977	1977	1991? ²⁷⁵	1991?	1994?	2000		-
-- Maine	1976	1976	2005	?	2001?	2004		-
-- New Jersey	1978 ²⁷⁶	1978 ²⁷⁷	1991?	1991?	?	2004 ²⁷⁸		-
-- Washington	1976	1976	2006	?	2001?	2007		-
-- Oregon	1972	1972	2007? ²⁷⁹	2007? ²⁸⁰	1998?	2008		-
-- New Hampshire	1975	1975	1997? ²⁸¹	1997?	2001?	2008		-
-- Maryland	1999 ²⁸²	1999 ²⁸³	2001	2001?	2008?	-		-
-- New York	1980	1980	2003	?	1989?	-		-
-- Delaware	1973	1973	-	-	1992?	-		-
-- Rhode Island	1998	1998	1995	1995	2001?	-		-
-- Iowa	1976 ²⁸⁴	1976 ²⁸⁵	2007	?	2003?	-		-
-- New Mexico	1975	1975	2003	?	2003?	-		-
-- Illinois	1962	1962	2006	?	2004?	-		-
-- Montana	1996/1997? ²⁸⁶	1996/1997? ²⁸⁷	-	-	2005?	-		-

-- Alaska	1980	1980	-	-	2005?	-		-
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Table 11: United States (eighteen states without partnership recognition but with formal decriminalisation)

	1a	1b	2a	2b	3a	3b	4a	4b
	Are homosexual acts between adults legal in criminal law?	After decriminalisation, are <i>age limits</i> now equal for homosexual and heterosexual acts?	Is sexual orientation discrimination in <i>employment</i> explicitly forbidden in legislation?	Is such discrimination in relation to <i>goods/services</i> explicitly forbidden in legislation?	Is there any recognition in law of non-registered <i>cohabitation</i> by same-sex partners?	Can same-sex couples enter into a <i>registered partnership</i> or <i>civil union</i> ?	Is joint and/or second-parent <i>adoption</i> by same-sex partner(s) legally possible?	Can same-sex couples get legally <i>married</i> ?
	If so, since when? 288	If so, since when? 289	If so, since when? 290	If so, since when? 291	If so, since when?	If so, since when?	If so, since when?	If so, since when?
-- Wisconsin	1983	1983	1982	1982?		-		-
-- Nevada	1993	- ²⁹²	1999	1999?		-		-
-- Pennsylvania	1980 ²⁹³	1980 ²⁹⁴	1975 ²⁹⁵	-		-		-
-- Colorado	1972	1972	2007	?		-		-
-- North Dakota	1973	1973	-	-		-		-
-- Ohio	1974? ²⁹⁶	1974? ²⁹⁷	- ²⁹⁸	-		-		-
-- West Virginia	1976	1976	-	-		-		-
-- Indiana	1977	1977	-	-		-		-
-- South Dakota	1977	1977	-	-		-		-
-- Wyoming	1977	1977	-	-		-		-
-- Nebraska	1978	1978	-	-		-		-
-- Kentucky	1992 ²⁹⁹	1992 ³⁰⁰	-	-		-		-
-- Tennessee	1996 ³⁰¹	1996 ³⁰²	-	-		-		-
-- Georgia	1998 ³⁰³	1998 ³⁰⁴	-	-		-		-
-- Missouri	1999 ³⁰⁵	1999 ³⁰⁶	-	-		-		-
-- Arizona	2001	2001	-	-		-		-
-- Arkansas	2001 ³⁰⁷	2001 ³⁰⁸	-	-		-		-
-- Texas	2003 ³⁰⁹	2003 ³¹⁰	-	-		-		-

Table 12: United States (thirteen states without formal decriminalisation)

	1a	1b	2a	2b	3a	3b	4a	4b
	Are homosexual acts between adults legal in criminal law? If so, since when? <small>311</small>	After decriminalisation, are <i>age limits</i> now equal for homosexual and heterosexual acts? If so, since when? <small>312</small>	Is sexual orientation discrimination in <i>employment</i> explicitly forbidden in legislation? If so, since when?	Is such discrimination in relation to <i>goods/services</i> explicitly forbidden in legislation? If so, since when?	Is there any recognition in law of non-registered <i>cohabitation</i> by same-sex partners? If so, since when?	Can same-sex couples enter into a <i>registered partnership</i> or <i>civil union</i> ? If so, since when?	Is joint and/or second-parent <i>adoption</i> by same-sex partner(s) legally possible? If so, since when?	Can same-sex couples get legally <i>married</i> ? If so, since when?
-- Minnesota	-	-	1993 ³¹³	1993? ³¹⁴		-		-
-- Alabama	-	-	-	-		-		-
-- Florida	-	-	-	-		-		-
-- Idaho	-	-	-	-		-		-
-- Kansas	-	-	-	-		-		-
-- Louisiana	-	-	-	-		-		-
-- Michigan	-	-	-	-		-		-
-- Mississippi	-	-	-	-		-		-
-- North Carolina	-	-	-	-		-		-
-- Oklahoma	-	-	-	-		-		-
-- South Carolina	-	-	-	-		-		-
-- Utah	-	-	-	-		-		-
-- Virginia	-	- ³¹⁵	-	-		-		-

Table 13: Canada (and its provinces and territories)

	1a	1b	2a	2b	3a	3b	4a	4b
	Are homosexual acts between adults legal in criminal law? If so, since when?	After decriminalisation, are <i>age limits</i> now equal for homosexual and heterosexual acts? If so, since when?	Is sexual orientation discrimination in <i>employment</i> explicitly forbidden in legislation? If so, since when? ³¹⁶	Is such discrimination in relation to <i>goods/services</i> explicitly forbidden in legislation? If so, since when? ³¹⁷	Is there any recognition in law of non-registered <i>cohabitation</i> by same-sex partners? If so, since when? ³¹⁸	Can same-sex couples enter into a <i>registered partnership</i> or <i>civil union</i> ? If so, since when?	Is joint and/or second-parent <i>adoption</i> by same-sex partner(s) legally possible? If so, since when? ³¹⁹	Can same-sex couples get legally <i>married</i> ? If so, since when? ³²⁰
Canada	1969 ³²¹	- ³²²	1996 ³²³	1996 ³²⁴	1990 ³²⁵	not appl. ³²⁶	not appl. ³²⁷	2005 ³²⁸
-- Ontario			1986	1986	1991 ³²⁹	-	1995 ³³⁰	2003 ³³¹
-- British Columbia			1992	1992	1991 ³³²	-	1995	2003 ³³³
-- Nova Scotia			1991	1991	1995	2001 ³³⁴	2001	2004 ³³⁵
-- Québec			1977	1977	1993	2002 ³³⁶	2002 ³³⁷	2004 ³³⁸
-- Manitoba			1987	1987	1991 ³³⁹	2004 ³⁴⁰	2002	2004 ³⁴¹
-- Saskatchewan			1993	1993	1998	-	2002	2004 ³⁴²
-- Newfoundland & Labrador			1997	1997	1998	-	2002	2004 ³⁴³
-- Yukon Territory			1987	1987	1988	-	?	2004 ³⁴⁴
-- Alberta			- ³⁴⁵	- ³⁴⁶	2002 ³⁴⁷	-	1999	2005 ³⁴⁸
-- Northwest Territories			-	-	1992	-	2002	2005 ³⁴⁹
-- New Brunswick			1992	1992	1993	-	2004	2005 ³⁵⁰
-- Prince Edward Island			1998	1998	1999	-	?	2005 ³⁵¹
-- Nunavut			-	-	1999	-	?	2005 ³⁵²

Table 14: The Middle East ³⁵³

	1a	1b	2a	2b	3a	3b	4a	4b
	Are homosexual acts between adults legal in criminal law?	After decriminalisation, are <i>age limits</i> now equal for homosexual and heterosexual acts?	Is sexual orientation discrimination in <i>employment</i> explicitly forbidden in legislation?	Is such discrimination in relation to <i>goods/services</i> explicitly forbidden in legislation?	Is there any recognition in law of non-registered <i>cohabitation</i> by same-sex partners?	Can same-sex couples enter into a <i>registered partnership</i> or <i>civil union</i>?	Is joint and/or second-parent <i>adoption</i> by same-sex partner(s) legally possible?	Can same-sex couples get legally <i>married</i>?
	If so, since when? ³⁵⁴	If so, since when?	If so, since when?	If so, since when?	If so, since when?	If so, since when?	If so, since when?	If so, since when?
Israel	1988	yes	1992 ³⁵⁵	-	1994 ³⁵⁶	-	2005 ³⁵⁷	- ³⁵⁸
Jordan	1951	yes	-	-		-		-
West Bank (Palestinian Auth.)	yes ³⁵⁹	yes	-	-		-		-
Gaza (Palestinian Auth.)	- ³⁶⁰	-	-	-		-		-
Iraq	2003? ³⁶¹	?	-	-		-		-
Lebanon	-	-	-	-		-		-
Syria	-	-	-	-		-		-
Kuwait	-	-	-	-		-		-
Oman	-	-	-	-		-		-
Qatar	-	-	-	-		-		-
Bahrain	-	-	-	-		-		-
Saudi Arabia	-	-	-	-		-		-
Yemen	-	-	-	-		-		-
United Arab Emirates	-	-	-	-		-		-

Table 15: Central and Southern Asia ³⁶²

	1a	1b	2a	2b	3a	3b	4a	4b
	Are homosexual acts between adults legal in criminal law? If so, since when? ³⁶³	After decriminalisation, are age limits now equal for homosexual and heterosexual acts? If so, since when?	Is sexual orientation discrimination in employment explicitly forbidden in legislation? If so, since when?	Is such discrimination in relation to goods/services explicitly forbidden in legislation? If so, since when?	Is there any recognition in law of non-registered cohabitation by same-sex partners? If so, since when?	Can same-sex couples enter into a registered partnership or civil union? If so, since when?	Is joint and/or second-parent adoption by same-sex partner(s) legally possible? If so, since when?	Can same-sex couples get legally married? If so, since when?
Kyrgyzstan	1998 ³⁶⁴	1998 ³⁶⁵	-	-		-		-
Kazakhstan	1998	yes ³⁶⁶	-	-		-		-
Tajikistan	1998	?	-	-		-		-
Nepal	in prep. ³⁶⁷	in prep. ³⁶⁸	-	-		-		in prep. ³⁶⁹
India	in prep. ³⁷⁰	-	-	-		-		-
Sri Lanka	- ³⁷¹	-	-	-		-		-
Turkmenistan	-	-	-	-		-		-
Uzbekistan	-	-	-	-		-		-
Afghanistan	-	-	-	-		-		-
Bangladesh	-	-	-	-		-		-
Bhutan	-	-	-	-		-		-
Iran	-	-	-	-		-		-
Maldives	-	-	-	-		-		-
Pakistan	-	-	-	-		-		-

Table 16: Eastern and Southeastern Asia

	1a	1b	2a	2b	3a	3b	4a	4b
	Are homosexual acts between adults legal in criminal law? If so, since when? ³⁷²	After decriminalisation, are age limits now equal for homosexual and heterosexual acts? If so, since when?	Is sexual orientation discrimination in employment explicitly forbidden in legislation? If so, since when?	Is such discrimination in relation to goods/services explicitly forbidden in legislation? If so, since when?	Is there any recognition in law of non-registered cohabitation by same-sex partners? If so, since when?	Can same-sex couples enter into a registered partnership or civil union? If so, since when?	Is joint and/or second-parent adoption by same-sex partner(s) legally possible? If so, since when?	Can same-sex couples get legally married? If so, since when?
Taiwan	yes	yes ³⁷³	2008 ³⁷⁴	2004 ³⁷⁵		in prep.?		in prep.?
Philippines	1987/2004? ³⁷⁶	yes ³⁷⁷	in prep. ³⁷⁸	in prep. ³⁷⁹		-		-
Thailand	1957 ³⁸⁰	yes ³⁸¹	?	?		-		-
China (People's Rep)	yes ³⁸²	yes	-	-		-		-
Macau (Ch)	yes	yes ³⁸³	-	-		-		-
Hong Kong (Ch)	1991? ³⁸⁴	2006? ³⁸⁵	-	-		-		-
Mongolia	2002? ³⁸⁶	yes	-	-		-		-
Vietnam	yes	yes ³⁸⁷	-	-		-		-
South Korea	yes	yes ³⁸⁸	-	-		-		-
North Korea	yes	?	-	-		-		-
Japan	1882 ³⁸⁹	? ³⁹⁰	-	-		-		-
Laos	yes	?	-	-		-		-
Cambodia	yes	?	-	-		-		-
Timor-Leste	yes	?	-	-		-		-
Indonesia	[-] ³⁹¹	- ³⁹²	-	-		-		-
Singapore	- ³⁹³	-	-	-		-		-
Myanmar	-	-	-	-		-		-
Brunei	-	-	-	-		-		-
Malaysia	- ³⁹⁴	-	-	-		-		-

Table 17: The fifteen oldest Member States of the European Union

	1a	1b	2a	2b	3a	3b	4a	4b
	Are homosexual acts between adults legal in criminal law? If so, since when? 395	After decriminalisation, are age limits now equal for homosexual and heterosexual acts? If so, since when? 396	Is sexual orientation discrimination in employment explicitly forbidden in legislation? If so, since when? 397	Is such discrimination in relation to goods/services explicitly forbidden in legislation? If so, since when? 398	Is there any recognition in law of non-registered cohabitation by same-sex partners? If so, since when? 399	Can same-sex couples enter into a registered partnership or civil union? If so, since when? ⁴⁰⁰	Is joint and/or second-parent adoption by same-sex partner(s) legally possible? If so, since when? 401	Can same-sex couples get legally married? If so, since when?
Netherlands	1811	1971	1992 ⁴⁰²	1992 ⁴⁰³	1979 ⁴⁰⁴	1998	2001	2001 ⁴⁰⁵
Belgium	1792	1985	2003	2003	1996	2000	2006 ⁴⁰⁶	2003 ⁴⁰⁷
Spain	1822 ⁴⁰⁸	1822 ⁴⁰⁹	1995	1995	1994 ⁴¹⁰	[1998] ⁴¹¹	[2003] 2005 ⁴¹²	2005 ⁴¹³
Denmark	1933 ⁴¹⁴	1976	1996	1987	1986 ⁴¹⁵	1989	1999	-
Sweden	1944	1978	1999	1987	1988 ⁴¹⁶	1995	2003	in prep. ⁴¹⁷
Germany	[1968] 1969 ⁴¹⁸	[1989] 1994 ⁴¹⁹	[1998] 2006 ⁴²⁰	[1992] 2006 ⁴²¹	2001	2001	2005 ⁴²²	-
United Kingdom	⁴²³	424	425	426	2000 ⁴²⁷	428	⁴²⁹	-
-- England & Wales	1967	2001	2003	2007	1999?	2005	2005	-
-- Scotland	1980	2001	2003	2007	2000	2005	2008?	-
-- Northern Ireland	1982	2001	2003	2007	?	2005	in prep.	-
France	1791	1982	1985 ⁴³⁰	1985 ⁴³¹	1993	1999	-	-
Finland	1971	1998	1995	1995	2001?	2002	-	-
Luxembourg	1792	1992	1997	1997	?	2004 ⁴³²	? ⁴³³	-
Ireland	1993	? ⁴³⁴	1993 ⁴³⁵	2000	1995 ⁴³⁶	in prep.	-	-
Austria	1971	2002 ⁴³⁷	2004 ⁴³⁸	[2000] ⁴³⁹	1998 ⁴⁴⁰	in prep. ⁴⁴¹	-	-
Portugal	1945 ⁴⁴²	2007 ⁴⁴³	2003	2004 ⁴⁴⁴	2001	-	-	-
Italy	[1861] 1890? ⁴⁴⁵	1890? ⁴⁴⁶	2003	-	?	- ⁴⁴⁷	-	-
Greece	1951? ⁴⁴⁸	- ⁴⁴⁹	2005	-	?	-	-	-

Table 18: The twelve newest Member States of the European Union

	1a	1b	2a	2b	3a	3b	4a	4b
	Are homosexual acts between adults legal in criminal law? If so, since when? <small>450</small>	After decriminalisation, are age limits now equal for homosexual and heterosexual acts? If so, since when? <small>451</small>	Is sexual orientation discrimination in employment explicitly forbidden in legislation? If so, since when? <small>452</small>	Is such discrimination in relation to goods/services explicitly forbidden in legislation? If so, since when? <small>453</small>	Is there any recognition in law of non-registered cohabitation by same-sex partners? If so, since when?	Can same-sex couples enter into a registered partnership or civil union? If so, since when?	Is joint and/or second-parent adoption by same-sex partner(s) legally possible? If so, since when?	Can same-sex couples get legally married? If so, since when?
Slovenia	1977	1977	1995	1995 ⁴⁵⁴	?	2006 ⁴⁵⁵	-	-
Czech Republic	1961	1990	2000 ⁴⁵⁶	2001 ⁴⁵⁷	? ⁴⁵⁸	2006 ⁴⁵⁹	-	-
Hungary	1962? ⁴⁶⁰	2002 ⁴⁶¹	2004	1997 ⁴⁶²	1996 ⁴⁶³	in prep. ⁴⁶⁴	-	-
Romania	1996	2002 ⁴⁶⁵	2000 ⁴⁶⁶	2000 ⁴⁶⁷	2006 ⁴⁶⁸	-	-	-
Estonia	1992	2002 ⁴⁶⁹	2004	in prep.	2006? ⁴⁷⁰	-	-	-
Cyprus	1998	- ⁴⁷¹	2004	-	2007 ⁴⁷²	-	-	-
Slovakia	1961	1990	2004	2008? ⁴⁷³	yes ⁴⁷⁴	-	-	-
Lithuania	1993	2003 ⁴⁷⁵	2003	2003 ⁴⁷⁶	?	-	-	-
Bulgaria	1968	2004 ⁴⁷⁷	2004	2004 ⁴⁷⁸	?	-	-	-
Malta	1973	1973	2003	-	?	-	-	-
Poland	1932	1932	2004	-	?	-	-	-
Latvia	1992	1998/2000 ⁴⁷⁹	2006 ⁴⁸⁰	-	?	-	-	-

Table 19: The twenty other Member States of the Council of Europe (not Member States of the European Union)

	1a	1b	2a	2b	3a	3b	4a	4b
	Are homosexual acts between adults legal in criminal law? If so, since when? 481	After decriminalisation, are age limits now equal for homosexual and heterosexual acts? If so, since when? 482	Is sexual orientation discrimination in employment explicitly forbidden in legislation? If so, since when? 483	Is such discrimination in relation to goods/services explicitly forbidden in legislation? If so, since when? 484	Is there any recognition in law of non-registered cohabitation by same-sex partners? If so, since when?	Can same-sex couples enter into a registered partnership or civil union? If so, since when? 485	Is joint and/or second-parent adoption by same-sex partner(s) legally possible? If so, since when?	Can same-sex couples get legally married? If so, since when?
Norway	1972	1972	1998 ⁴⁸⁶	1981 ⁴⁸⁷	1991 ⁴⁸⁸	1993 ⁴⁸⁹	2001 ⁴⁹⁰	2009 ⁴⁹¹
Iceland	1940 ⁴⁹²	1992	1996 ⁴⁹³	1996 ⁴⁹⁴	1994? ⁴⁹⁵	1996 ⁴⁹⁶	2000 ⁴⁹⁷	-
Switzerland	1942 ⁴⁹⁸	1992 ⁴⁹⁹	2000 ⁵⁰⁰	2000 ⁵⁰¹	2000? ⁵⁰²	[2001] ⁵⁰³ 2007	-	-
Andorra	yes ⁵⁰⁴	yes ⁵⁰⁵	2005 ⁵⁰⁶	2005 ⁵⁰⁷	?	2005 ⁵⁰⁸	- ⁵⁰⁹	-
Croatia	1977	1998	2003 ⁵¹⁰	2003 ⁵¹¹	2003 ⁵¹²	-	-	-
Bosnia&Herzegovina	[1996] 1998? ⁵¹³	? ⁵¹⁴	2003? ⁵¹⁵	2003? ⁵¹⁶	?	-	-	-
Macedonia (FYROM)	1996 ⁵¹⁷	1996	2005 ⁵¹⁸	-	?	-	-	-
Georgia	2000 ⁵¹⁹	yes ⁵²⁰	2006 ⁵²¹	-	?	-	-	-
Turkey	1858	1858	-	-	?	-	-	-
San Marino	1865? ⁵²²	1865	-	-	?	-	-	-
Montenegro	1977 ⁵²³	1977	-	-	?	-	-	-
Ukraine	1991	1991	-	-	?	-	-	-
Russian Federation	1993 ⁵²⁴	1997	-	-	?	-	-	-
Liechtenstein	1989 ⁵²⁵	2001	in prep.?	in prep.?	? ⁵²⁶	in prep.? ⁵²⁷	in prep.?	-
Azerbaijan	2001 ⁵²⁸	2001	-	-	?	-	-	-
Moldova	1995	2003	-	-	?	-	-	-
Serbia	1994 ⁵²⁹	2006 ⁵³⁰	?	?	?	-	-	-
Monaco	1793 ⁵³¹	yes ⁵³²	-	-	?	-	-	-
Armenia	2003 ⁵³³	yes ⁵³⁴	-	- ⁵³⁵	?	-	-	-
Albania	1995	- ⁵³⁶	-	-	?	-	-	-

Table 20: Other independent or dependent European jurisdictions (not Member States of the Council of Europe)

	1a	1b	2a	2b	3a	3b	4a	4b
	Are homosexual acts between adults legal in criminal law? If so, since when? <small>537</small>	After decriminalisation, are age limits now equal for homosexual and heterosexual acts? If so, since when?	Is sexual orientation discrimination in employment explicitly forbidden in legislation? If so, since when?	Is such discrimination in relation to goods/services explicitly forbidden in legislation? If so, since when?	Is there any recognition in law of non-registered cohabitation by same-sex partners? If so, since when?	Can same-sex couples enter into a registered partnership or civil union? If so, since when?	Is joint and/or second-parent adoption by same-sex partner(s) legally possible? If so, since when?	Can same-sex couples get legally married? If so, since when?
Greenland (DK)	1978	1978 ⁵³⁸	-	-	?	1996 ⁵³⁹	-	-
Kosovo	1994? ⁵⁴⁰	-	2004 ⁵⁴¹	2004 ⁵⁴²	?	-	-	-
Isle of Man (UK)	1992	2006 ⁵⁴³	2005 ⁵⁴⁴	-	?	-	in prep.?	-
Vatican City	1929	1929 ⁵⁴⁵	-	-	-	-	-	-
Faroe Islands (DK)	1933 ⁵⁴⁶	1988 ⁵⁴⁷	? ⁵⁴⁸	? ⁵⁴⁹	?	-	-	-
Belarus	1994	2000 ⁵⁵⁰	-	-	?	-	-	-
Jersey (UK)	1990	2006 ⁵⁵¹	?	?	?	-	?	-
Guernsey (UK)	1983	in prep.?	in prep.?	in prep.?	?	in prep.?	-	-
Gibraltar (UK)	1993	in prep.?	-	-	?	-	-	-
Northern Cyprus	2009? ⁵⁵²	?	-	-	?	-	-	-
Svalbard (N) ⁵⁵³	?	?	?	?	?	?	?	?
Transnistria	?	?	-	-	?	-	-	-
South Ossetia	?	?	-	-	?	-	-	-
Abkhazia	?	?	-	-	?	-	-	-
Chechnya (Russia)	- ? ⁵⁵⁴	-	-	-	?	-	-	-

Table 22: Other independent countries in Oceania

	1a	1b	2a	2b	3a	3b	4a	4b
	Are homosexual acts between adults legal in criminal law? If so, since when?	After decriminalisation, are age limits now equal for homosexual and heterosexual acts? If so, since when?	Is sexual orientation discrimination in employment explicitly forbidden in legislation? If so, since when?	Is such discrimination in relation to goods/services explicitly forbidden in legislation? If so, since when?	Is there any recognition in law of non-registered cohabitation by same-sex partners? If so, since when?	Can same-sex couples enter into a registered partnership or civil union? If so, since when?	Is joint and/or second-parent adoption by same-sex partner(s) legally possible? If so, since when?	Can same-sex couples get legally married? If so, since when?
New Zealand	1986 ⁶⁰¹	2005? ⁶⁰²	1994 ⁶⁰³	1994 ⁶⁰⁴	1992 ⁶⁰⁵	2005 ⁶⁰⁶	-	-
Fiji	? ⁶⁰⁷	?	1998? ⁶⁰⁸	1998 ⁶⁰⁹		-		-
Marshall Islands	2005 ⁶¹⁰	2005? ⁶¹¹	-	-		-		-
Vanuatu	yes ⁶¹²	- ⁶¹³	-	-		-		-
Federated States of Micronesia	yes ⁶¹⁴	? ⁶¹⁵	-	-		-		-
Papua New Guinea	- ⁶¹⁶	-	-	-		-		-
Solomon Islands	- ⁶¹⁷	-	-	-		-		-
Kiribati	- ⁶¹⁸	-	-	-		-		-
Nauru	- ⁶¹⁹	-	-	-		-		-
Palau	- ⁶²⁰	-	-	-		-		-
Samoa	- ⁶²¹	-	-	- ⁶²²		-		-
Tonga	- ⁶²³	-	-	-		-		-
Tuvalu	- ⁶²⁴	-	-	-		-		-

Table 23: Dependent jurisdictions in Oceania

	1a	1b	2a	2b	3a	3b	4a	4b
	Are homosexual acts between adults legal in criminal law?	After decriminalisation, are age limits now equal for homosexual and heterosexual acts?	Is sexual orientation discrimination in employment explicitly forbidden in legislation?	Is such discrimination in relation to goods/services explicitly forbidden in legislation?	Is there any recognition in law of non-registered cohabitation by same-sex partners?	Can same-sex couples enter into a registered partnership or civil union?	Is joint and/or second-parent adoption by same-sex partner(s) legally possible?	Can same-sex couples get legally married?
	If so, since when?	If so, since when?	If so, since when?	If so, since when?	If so, since when?	If so, since when?	If so, since when?	If so, since when?
Nouvelle Calédonie (Fr)	yes?	yes?	?	?	?	?	-	-
French Polynesia	yes?	yes?	?	?	?	?	-	-
Loyalty Islands (Fr)	?	?	?	?	?	?	-	-
Wallis and Futuna (Fr)	?	?	?	?	?	?	-	-
Pitcairn Islands (UK)	1967? ⁶²⁵	?	? ⁶²⁶	? ⁶²⁷	?	2005? ⁶²⁸	2005? ⁶²⁹	-
Guam (USA)	1979? ⁶³⁰	yes	yes? ⁶³¹	yes? ⁶³²		-		-
American Samoa (USA)	1899? ⁶³³	?	-	-		-		-
Northern Mariana Islands (USA)	?	?	-	-		-		-
Easter Island (Chile)	1998? ⁶³⁴	?	-	-		-		-
Juan Fernández Islands (Chile)	?	?	-	-		-		-
Niue (NZ)	2007? ⁶³⁵	?	?	?		?	-	-
Tokelau (NZ)	2007? ⁶³⁶	?	?	?		?	-	-
Chatham Islands (NZ)	?	?	?	?		?	-	-
Cook Islands (NZ)	- ⁶³⁷	-	?	?		?	-	-

Footnotes

¹ According to Graupner (2005, p. 148) the total ban on male homosexual acts was declared unconstitutional by the Constitutional Court of South Africa on 9 October 1998 (*National Coalition for Gay and Lesbian Equality v Minister of Justice*, case CCT 11/98, www.constitutionalcourt.org.za/Archimages/2076.PDF).

² In South Africa, the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 13 December 2007, available at www.ghju.uct.ac.za/sexual-offence-bill/Sexual-Offences-Act-2007.pdf) sets a general age limit of 16. This follows from articles 1, 15 and 16, which according to article 72 came into force on 16 December 2007.

³ In South Africa a prohibition of sexual orientation discrimination was already part of the transitional Constitution of 1993, and can since 1996 be found in article 9 of the Constitution; such a prohibition can also be found in the Labour Relations Act of 1995 and in the Employment Equality Act of 1998 (see Wintemute 2001, p. 782 and 786). A general prohibition of unfair discrimination (on grounds of sexual orientation) can also be found in the Promotion of Equality and Prevention of Unfair & Discrimination Act of 2000 (text available at www.info.gov.za/gazette/acts/2000/a4-00.pdf).

⁴ In South Africa a prohibition of sexual orientation discrimination was already part of the transitional Constitution of 1993, and can since 1996 be found in article 9 of the Constitution (see Wintemute 2001, p. 782). A general prohibition of unfair discrimination (on grounds of sexual orientation) can also be found in the Promotion of Equality and Prevention of Unfair & Discrimination Act of 2000 (text available at www.info.gov.za/gazette/acts/2000/a4-00.pdf).

⁵ Since 1996, same-sex partners have been recognised in various South African laws (see Wintemute 2001, p.778). For example, article 31 of the Special Pensions Acts of 1996 includes in its definition of 'marriage relationship' also 'a continuous cohabitation in a homosexual or heterosexual partnership for a period of at least 5 years' (text available at www.info.gov.za/acts/1996/a69-96.pdf). The Constitutional Court ruled on 2 December 1999 that same-sex partners are entitled to the same immigration rights as married different-sex partners (*National Coalition for Gay and Lesbian Equality v Minister of Home Affairs*, case CCT 10/99, www.constitutionalcourt.org.za/Archimages/4320.PDF).

⁶ In South Africa the law opening up marriage to same-sex couples also introduced civil partnership for same-sex couples ('Civil Union Act, 2006', in force since 30 November 2006, text available at www.info.gov.za/view/DownloadFileAction?id=67843). Its Section 1 defines 'civil union' as 'the voluntary union of two persons who are both 18 years of age or older, which is solemnised and registered by way of either a marriage or a civil partnership, in accordance with the procedures prescribed in this Act, to the exclusion, while it lasts, of all others'.

⁷ In South Africa joint adoption by same-sex partners is possible since the judgment of the Constitutional Court of 10 September 2002 (*Du Toit v Minister of Welfare and Population Development*, case CCT 40/01, www.constitutionalcourt.org.za/Archimages/590.PDF). Furthermore, the Constitutional Court ruled on 28 March 2003 that after a birth resulting from donor insemination, registration of a mother's female partner as a parent must be allowed, as in the case of the mother's husband (*J & B v Director General, Department of Home Affairs*, CCT 46/02, www.constitutionalcourt.org.za/Archimages/776.PDF).

⁸ In South Africa legislation opening up marriage to same-sex couples came into effect on 30 November 2006. The text of that legislation, curiously called the 'Civil Union Act, 2006', is available at www.info.gov.za/view/DownloadFileAction?id=67843. Its adoption followed the judgment of the Constitutional Court of 1 December 2005 in the cases of *Minister of Home Affairs v Fourie* CCT 60/04 and *Lesbian and Gay Equality Project v Minister of Home Affairs*, CCT 10/05, www.constitutionalcourt.org.za/Archimages/5257.PDF).

⁹ The Penal Code of Mozambique contains provisions against both women and men who habitually practice 'unnatural vice' (see Ottosson 2008, p. 25-27).

¹⁰ In Mozambique article 108 (plus article 4) of the Labour Law of 1 August 2007 prohibits sexual orientation discrimination. According to its article 273, this law (No. 23/2007) entered into force in November 2007 (see the English version of the law at www.arbitrationmz.com/data/docs/Labour_Law_nr_232007.eng.pdf, and see also Ottosson 2008, p. 46).

¹¹ According to Ottosson (2008, p. 22), in Lesotho 'sodomy' between men is a common law offence, defined as 'unlawful and intentional sexual relationship per anum between two human males'. However, other sources, including Behind the Mask (www.mask.org.za/index.php?page=lesotho, accessed 12 January 2009) and Amnesty International 2006, suggest that in Lesotho there are no anti-sodomy laws ###.

¹² In Namibia 'sodomy' ('unnatural sex crime') is a common law offence (see Ottosson 2008, p. 27). According to 'Behind the Mask', it is not clear whether sex between women is legal (see www.mask.org.za/index.php?page=namibia, accessed 22 January 2009) ###.

¹³ According to Wintemute (2001, p. 785) sexual orientation discrimination was prohibited by Section 107 of the Labour Act of 1992 (Act No. 6 of 1992). According to the ILO this act came into force 1 November 1992 (see www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=NAM, under 'General Provisions'). The text of this act can be found at www.ilo.org/dyn/natlex/docs/WEBTEXT/29328/64850/E92NAM01.htm. However, the Labour Act of 1992 has been repealed by Section 142 of the Labour Act of 2007 (Act No. 11 of 2007, which was promulgated on 31 December 2007, see www.ilo.org/dyn/natlex/docs/ELECTRONIC/79050/84822/F733128361/NAM79050.pdf, and came into force on 1 November 2008 (see Library of Congress, www.loc.gov/lawweb/servlet/lloc_news?disp3_696_text, accessed 22 January 2009). The new Labour Act does not cover sexual orientation in its prohibition of discrimination (Section 5).

¹⁴ In Malawi 'carnal knowledge against the order of nature' or 'indecenty' between men is a crime (see Ottosson 2008, p. 22-23).

¹⁵ In Zimbabwe 'sodomy' between men is a common law offence; it is unclear whether it also applies to sexual acts between women (see Ottosson 2008, p. 43).

¹⁶ The Penal Code of Angola contains provisions against both women and men who habitually practice 'unnatural vice' (see Ottosson 2008, p. 7).

¹⁷ In Swaziland 'sodomy' between men is a common law offence (see Ottosson 2008, p. 37, who also mentions that the prohibition may also cover women, and that there are plans to extend the prohibition to all sexual acts between women and to all sexual acts between men ###).

¹⁸ In Botswana 'carnal knowledge against the order of nature' and 'gross indecency' between women or between men is a crime (see Ottosson 2008, p. 10). The criminalisation of 'gross indecency' between women came in 1998 with the Penal Code Amendment Act (see Alok Gupta, *This Alien Legacy – The Origins of "Sodomy" Laws in British Colonialism*, New York: Human Rights Watch 2008, available at www.hrw.org/en/reports/2008/12/17/alien-legacy-0, p. 51; and Scott Long, 'Before the law: Criminalizing sexual conduct in colonial and post-colonial southern African societies' in: *More than a name: State-Sponsored Homophobia and Its Consequences in Southern Africa*, New York: Human Rights Watch & International Gay and Lesbian Human Rights Commission, available at www.hrw.org/en/reports/2003/05/13/more-name-0, p. 272-274)

¹⁹ In Zambia 'carnal knowledge of any person against the order of nature' is a crime, and so is any act of 'gross indecency' between men (see Ottosson 2008, p. 43).

²⁰ Unclear since when homosexual acts are legal in the Democratic Republic of Congo ###. See also the following note.

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- ²¹ In the Democratic Republic of Congo the age limit for homosexual acts seems the same as that for heterosexual acts (see articles 167 and 172 of the Penal Code, as amended by law 06/018 of 20 July 2006 'modifiant et complétant le Décret du 30 janvier 1940 portant Code pénal congolais'; the text of the 2006 law is available at www.leganet.cd/Legislation/JO/2006/JO.01.08.2006.C.P.P..pdf). According to Ottosson (2008, p. 13) article 172 of the Penal Code can be used against same-sex contacts. However, just like article 167, the text of article 172 does not distinguish between homosexual and heterosexual contacts, and both articles only apply to indecent or immoral behaviour with respect to persons under 18 ###.
- ²² In the Central African Republic homosexual acts are legal, according to Ottosson (2008, p. 45), but he does not give a year for decriminalisation ###. The legality of homosexual acts is confirmed by Behind the Mask (www.mask.org.za/index.php?page=car, accessed 12 January 2009).
- ²³ According to Behind the Mask (www.mask.org.za/index.php?page=car, accessed 12 January 2009) there is an equal age of consent in the Central African Republic ###.
- ²⁴ In Côte d'Ivoire homosexual acts are legal, according to Ottosson (2008, p. 45), but he does not give a year for decriminalisation ###. According to Behind the Mask after its independence in 1960 it did inherit its Penal Code from France, which did not criminalise homosexual acts between adults (www.mask.org.za/article.php?cat=&id=263, accessed 5 February 2009).
- ²⁵ According to Behind the Mask the age of consent in Côte d'Ivoire is 15 ### (www.mask.org.za/index.php?page=cote, accessed 12 January 2009). That an age of consent of 15 applies to both homosexual and heterosexual acts is also suggested at www.avert.org/aofconsent.htm, accessed 3 February 2009 ###.
- ²⁶ In Mali homosexual acts are legal, according to Ottosson (2008, p. 45), but he does not give a year for decriminalisation ###. The Code Pénal of 1961 (www.justicemali.org/pdf/11-codepenal.pdf) does not refer to homosexuality. However, it seems that the general offence of public indecency (article 179) has been used to criminalise certain homosexual behaviour (see Behind the Mask, www.mask.org.za/index.php?page=mali, accessed 2 February 2009), as in the case of two lesbians in 1999, mentioned by Wikipedia ('LGBT rights in Mali', accessed 2 February 2009) ###.
- ²⁷ Article 108 of the Mali Code Pénal of 1961 (www.justicemali.org/pdf/11-codepenal.pdf) seems to provide an equal age of consent of 15 ###.
- ²⁸ In Congo (Brazzaville) homosexual acts are legal, according to Ottosson (2008, p. 45), but he does not give a year for decriminalisation. ###
- ²⁹ In Rwanda homosexual acts are legal, according to Ottosson (2008, p. 45), but he does not give a year for decriminalisation. ### The Code Pénal which is in force from 1980 does not criminalise homosexual acts between adults (www.amategeko.net/display_rubrique.php?ActDo=ShowArt&Information_ID=947&Parent_ID=3070640&type=public&Langue_ID=Fr&rubID=30691315#30691315, accessed 5 February 2009). However, according to the International Gay and Lesbian Human Rights Commission (IGLHRC) 2007, there have been recent plans to criminalise same-sex conduct (see www.iglhrc.org/cgi-bin/iowa/article/takeaction/resourcecenter/403.html, accessed 5 February 2009) ###.
- ³⁰ In Rwanda, article 362 of the Penal Code seems to prohibit any act against nature or any indecent act with someone of the same sex under the age of 18 ('acte impudique ou contre nature avec un individu de son sexe de moins de dix-huit ans'), while article 358 contains a general prohibition of indecency with children of either sex under the age 16 (see the website of the Rwanda Ministry of Justice, www.amategeko.net/display_rubrique.php?ActDo=ShowArt&Information_ID=947&Parent_ID=3070640&type=public&Langue_ID=Fr&rubID=30691315#30691315, accessed 5 February 2009) ###. However, several sources seem to read article 362 differently. For example, Behind the Mask claims that there are 'no specific regulations concerning homosexuality' and that article 362 of Penal Code 'prohibits sexual relations with a person under the age of 18' (see www.mask.org.za/index.php?page=rwanda, accessed 5 February 2009). An equal age of consent of 18 is mentioned at www.avert.org/aofconsent.htm, accessed 3 February 2009 ###, but Amnesty International 2006 suggests the age of consent for homosexual acts is higher than for heterosexual acts ###.

³¹ In Gabon homosexual acts are legal, according to Ottosson (2008, p. 45), but he does not give a year for decriminalisation. ###

³² According to 'Behind the Mask', in Gabon the heterosexual age of consent is 15 and the homosexual age of consent is 21 (www.mask.org.za/index.php?page=gabon, accessed on 12 January 2009) ###.

³³ In Burkina Faso homosexual acts are not illegal as such, but 'any act of a sexual nature that is contrary to good morals' is a crime (see Ottosson 2008, p. 11).

³⁴ According to Amnesty International 2006 the age limits are equal in Burkina Faso ###.

³⁵ In Burundi homosexual acts may still be legal (see Ottosson 2008, p. 45), or already criminalised by a new Penal Code adopted by the National Assembly late in 2008 (see Behind the Mask, www.mask.org.za/index.php?page=burundi accessed 5 February 2009; see also Wikipedia, 'LGBT rights in Burundi', accessed 5 February 2009) ###. In February 2009 the International Gay and Lesbian Human Rights Commission reported that on 17 February 2009 the Burundi Senate by a large majority voted to strike out the provision criminalising consensual same-sex activity, adding that the bill will return to the National Assembly (see www.iglhrc.org/cgi-bin/iowa/article/takeaction/resourcecenter/863.html, accessed 22 February 2009) ###. According to Amnesty International 2006, sex between men is punishable in Burundi as 'immoral act' ###.

³⁶ In Equatorial Guinea homosexual acts are legal, according to Ottosson (2008, p. 45), but he does not give a year for decriminalisation. ### According to Amnesty International 2006 homosexual acts illegal ###.

³⁷ The Penal Code of Guinea-Bissau contains provisions against both women and men who habitually practice 'unnatural vice' (see Ottosson 2008, p. 16 and 26). However, according to Amnesty International 2006, male and female homosexuality is legal ###.

³⁸ In Guinea any act against nature or any indecent act ('acte impudique ou contre nature') between individuals of the same sex is a crime (see Ottosson 2008, p. 16).

³⁹ In Gambia 'carnal knowledge of any person against the order of nature' (defined as including any 'homosexual act') between women or between men, is a crime (see Ottosson 2008, p. 15).

⁴⁰ In Liberia 'voluntary sodomy' (described as engaging in 'deviate sexual intercourse') is a crime, also between women (see Ottosson 2008, p. 22).

⁴¹ In Ghana 'unnatural carnal knowledge' between men, is a crime (see Ottosson 2008, p. 15).

⁴² In Togo any act against nature or any indecent act ('acte impudique ou contre nature') between women or between men, is a crime (see Ottosson 2008, p. 38).

⁴³ In Cameroon, having 'sexual relations with a person of the same sex' is a crime (see Ottosson 2008, p. 11).

⁴⁴ In Benin 'an indecent act or an act against nature with an individual of the same sex' is a crime (see Ottosson 2008, p. 10).

⁴⁵ In Nigeria ‘carnal knowledge of any person against the order of nature’ is a crime, and so is ‘gross indecency’ between men (see Ottosson 2008, p. 28). Many states in Northern Nigeria have adopted their own penal codes that include principles of Islamic law, also criminalising sexual activities between women (see Ottosson 2008, p. 29-30, and Alok Gupta, *This Alien Legacy – The Origins of “Sodomy” Laws in British Colonialism*, New York: Human Rights Watch 2008, available at www.hrw.org/en/reports/2008/12/17/alien-legacy-0, p. 60-61; see also ‘Sharia Implementation in Northern Nigeria 1999-2006: A Sourcebook’, online available at www.sharia-in-africa.net/pages/publications/sharia-implementation-in-northern-nigeria.php). At national level, both in 2006 and 2009, a legislative proposal has been introduced to further criminalise homosexuality. The ‘Same Gender Marriage (Prohibition) Bill’ received approval in the House of Representatives of Nigeria in January 2009, and among other things would make it a crime for people of the same sex to live together ‘as husband and wife’ (see Human Rights Watch, www.hrw.org/en/news/2009/01/26/nigeria-reject-same-gender-marriage-ban, accessed 8 February 2009) ###.

⁴⁶ See previous note.

⁴⁷ See previous note.

⁴⁸ In Egypt homosexual acts are not illegal as such, but criminal prohibitions of ‘habitual debauchery’, ‘contempt for religion’ and ‘shameless public acts’ have been used against gay men (see Ottosson 2008, p. 14).

⁴⁹ According to Ottosson (2008, p. 22) female and male homosexual acts are a crime in Libya. However, the article from the Penal Code that he quotes, only seems to contain a general prohibition of ‘lewd acts’ (‘with a person in accordance with one of the methods specified in the preceding article’ ###).

⁵⁰ Ottosson (2008, p. 46) considers the legal situation in Chad unknown, but other sources say homosexual acts are legal (including Wikipedia, ‘LGBT Rights in Chad’, accessed 9 December 2008; Behind the Mask, www.mask.org.za/index.php?page=chad, accessed 12 January 2009). Chad was a French colony from 1920 to 1958/1960 (see <http://fr.wikipedia.org/wiki/Tchad#Histoire>, accessed 8 February 2009), so homosexual acts may have been legal since 1920 ###.

⁵¹ In Niger homosexual acts between adults are not illegal as such (Ottosson 2008, p. 28; Behind the Mask, www.mask.org.za/index.php?page=niger, accessed 8 February 2009), but there is a general criminalisation of any indecent act ‘on’ a person of either sex (‘tout acte impudique exercé directement sur une personne de l’un ou de l’autre sexe’, article 277 of the Code Pénal of 1961; a version of that Code with amendments up to 2003 can be found at www.unhcr.org/refworld/docid/47fb8e642.html, accessed 8 February 2009). It is unclear if this in fact criminalises all homosexual acts ###.

⁵² In Niger, if committed with someone of the same sex under 21, any act against nature or any indecent act (‘acte impudique ou contre nature avec un individu de son sexe, mineur de vingt-et-un an’) is a crime (article 282 of the Code Pénal of 1961; a version of that Code with amendments up to 2003 can be found at www.unhcr.org/refworld/docid/47fb8e642.html, accessed 8 February 2009).

⁵³ According to Amnesty International 2006, same-sex marriages are allowed in Niger ###.

⁵⁴ In Morocco ‘lewd or unnatural acts with an individual of the same sex’ are a crime (see Ottosson 2008, p. 25).

⁵⁵ As the Western Sahara is contested between Morocco and the Polisario Front (a liberation movement), the legal situation is unclear. It is considered a non-self-governing territory by the United Nations. As the territory is mainly under control of Morocco, the legal situation for that part of the territory is comparable to the situation in Morocco (see Wikipedia ‘Western Sahara’, and Behind the Mask, www.mask.org.za/index.php?page=westernsahara, both accessed 5 February 2009) ###.

⁵⁶ In Tunisia 'sodomy' is a crime (see Ottosson 2008, p. 39-40).

⁵⁷ In Algeria any 'acte d'homosexualité' is a crime (see Ottosson 2008, p. 7).

⁵⁸ In Sudan 'sodomy' between men and 'gross indecency' between women or between men is a crime, according to the Penal Code 1991 (see Ottosson 2008, p. 36). In ten regions of Sudan another code is applicable: 'The Penal Code, 2003', published and distributed by the Secretariat for Legal Affairs and Constitutional Development of the Sudanese People's Liberation Movement as part of the 'Laws of the New Sudan' (available at www.unhcr.org/refworld/docid/469e1f0a2.html). Section of 318 of the latter Code prohibits (in gender-neutral terms) 'carnal knowledge against the order of nature', while Section 319 only prohibits non-consensual 'gross indecency'.

⁵⁹ In Mauritania any act against nature or any indecent act ('acte impudique ou contre nature') between adult Muslim men, and also between women, is a crime (see Ottosson 2008, p. 24).

⁶⁰ In Djibouti any indecent act ('acte impudique') between women or between men, is a crime (see Ottosson 2008, p. 13).

⁶¹ In Ethiopia any 'homosexual act, or any other indecent act' between women or between men, is a crime (see Ottosson 2008, p. 14).

⁶² In Somalia 'carnal intercourse' or 'an act of lust different from carnal intercourse' between women or between men, is a crime (see Ottosson 2008, p. 36).

⁶³ In Eritrea any 'act corresponding to the sexual act, or any other indecent act' between women or between men, is a crime (see Ottosson 2008, p. 14).

⁶⁴ In Tanzania 'carnal knowledge against the order of nature' between men, is a crime (see Ottosson 2008, p. 37). It seems that in the part of Tanzania called Zanzibar sexual acts between women have been criminalised since 2004 (see Ottosson 2008, p. 37-38). ###

⁶⁵ In Kenya 'carnal knowledge against the order of nature' or 'any act of gross indecency' between men is a crime (see Ottosson 2008, p. 20-21). This criminalisation is also said to restrict the possibilities for homosexuals to meet and discuss fundamental rights (David Kuria, *Understanding homosexual people in Kenya*, Nairobi: gaykenya.com, 2005, p. 13).

⁶⁶ In Senegal, any act against nature or any indecent act ('acte impudique ou contre nature') with a person of the same sex is a crime (see Ottosson 2008, p. 34).

⁶⁷ In Uganda 'carnal knowledge of any person against the order of nature' is a crime, and so is any act of gross indecency of any person with another person (see sections 145-148 of the Penal Code of 1950 as amended, at www.ugandaonlinelawlibrary.com/files/free/The_Penal_Code_Act; see also Ottosson 2008, p. 41). Other sources refer to slightly different section numbers, but with the same content see *Report on the rights of lesbian, gay, bisexual and transgender people in the Republic of Uganda under the African Charter of Human and Peoples' Rights*, written by the International Gay and Lesbian Human Rights Commission & Sexual Minorities of Uganda, November 2006, www.iglhrc.org/binary-data/ATTACHMENT/file/000/000/105-1.pdf, and also Behind the Mask, at www.mask.org.za/index.php?page=uganda). According to Amnesty International 2006, women are not mentioned in the laws, but the laws have been used against women ###.

⁶⁸ Article 31 of the Constitution of Uganda explicitly prohibits same-sex marriage (see *Report on the rights of lesbian, gay, bisexual and transgender people in the Republic of Uganda under the African Charter of Human and Peoples' Rights*, written by the International Gay and Lesbian Human Rights Commission &

Sexual Minorities of Uganda, November 2006, www.iglhrc.org/binary-data/ATTACHMENT/file/000/000/105-1.pdf). There is some ambiguity as to the new wording, and as to the year in which it was adopted: the text of article 31(2a) given in the Constitution (Amendment) Act 2005 (available at www.ugandaonlinelawlibrary.com/files/constitution/Constitutional_Amendment_Act,_2005.pdf) is different from the one quoted in the report just mentioned, and the report refers to the amendment having been adopted in July 2006 ###.

⁶⁹ According to Behind the Mask, in Reunion homosexuality is legal, because French law applies (see www.mask.org.za/index.php?page=reunion, accessed 2 February 2009).

⁷⁰ According to Behind the Mask, in Reunion the age of consent is 15 years, because French law applies (see www.mask.org.za/index.php?page=reunion, accessed 2 February 2009).

⁷¹ According to Ottosson (2008, p. 45) homosexual acts are legal in Cape Verde since 2004. However, that information is somewhat contradicted by Wikipedia, and not confirmed by the US State Department source quoted by Wikipedia ('LGBT rights in Cape Verde', accessed 9 December 2008). ### Also according to Amnesty International 2006 male and female homosexuality is still illegal in Cape Verde ###.

⁷² According to Wikipedia ('LGBT rights in Cape Verde', accessed 9 December 2008) a new Penal Code came into force in Cape Verde in 2004, providing for equal age limits. ###

⁷³ In Madagascar homosexual acts are legal, according to Ottosson (2008, p. 45), but he does not give a year for decriminalisation. ###

⁷⁴ The Penal Code of São Tomé and Príncipe contains provisions against both women and men who habitually practice 'unnatural vice' (see Ottosson 2008, p. 33). Also according to Amnesty International 2006 male and female homosexuality is illegal###. This is contradicted by Behind the Mask (www.mask.org.za/index.php?page=stprincipe, accessed 2 February 2009) ###.

⁷⁵ In the Seychelles 'carnal knowledge against the order of nature' between men, is a crime (see Ottosson 2008, p. 34).

⁷⁶ In Mauritius 'sodomy' is a crime (see Ottosson 2008, p. 24-25).

⁷⁷ In the Comoros Islands any act against nature or any indecent act ('acte impudique ou contre nature') between women or between men, is a crime (see Ottosson 2008, p. 11-12).

⁷⁸ In Brazil decriminalisation took place in 1831, according to Ottosson (2008, p. 45).

⁷⁹ Graupner (2005, p. 145) does not mention a year ###, although he gives a uniform age limit for heterosexual and homosexual behaviour (14 years). This limit can be found in article 224 of the Penal Code (consolidated text available at <http://www3.dataprev.gov.br/SISLEX/paginas/16/1940/2848.htm>, accessed 21 February 2009).

⁸⁰ It has been reported that legislation against sexual orientation discrimination is in preparation in Brazil. See for example the GLS section of Brazilian newspaper *O TEMPO* of 27 December 2008 (GLS = 'gays, lésbicas e simpatizantes'), saying there is a bill for a federal law to be voted in the Senate in 2009 and it is expected to be approved. According to the official website of the Chamber of Deputies (www.camara.gov.br/sileg/prop_detalhe.asp?id=31842), the bill was first introduced by a deputy named Lara Bernardi on 7 August 2001, and would amend several laws including the Penal Code and the Labour Law (text of bill available at www.camara.gov.br/sileg/integras/429491.pdf, accessed February 5th, 2009).

⁸¹ Idem.

⁸² According to Wikipedia ('Recognition of same-sex unions in Brazil', accessed 6 January 2009), a 2006 decision by the *Superior Tribunal de Justiça* (the highest court of Brazil) recognizes same-sex couples as *de facto* partners. It has also been reported that on 2 September 2008 the same Court decided for the first time that issues related to same-sex couples should be discussed as Family Law and not Patrimonial Law (see www.ess.ufrrj.br/diversidadese sexual/site/leis/comentarios_int.php?id_content=98, accessed February 7th, 2009). However, already in 2000 the National Institute of Social Security (INSS) issued a federal normative instruction (n° 25, 7th June 2000) which regulates the right to a pension for homosexual partners (see <http://www3.dataprev.gov.br/SISLEX/paginas/38/INSS-DC/2000/25.htm>, accessed February 6th, 2009). Possibly as a result of that instruction, it has been reported that in early 2002, a federal court in Porto Alegre, the capital of Rio Grande do Sul, ordered the social security system to pay a pension to the partner of a deceased man (see Reding 2003, p.28) ###.

⁸³ According to Grupo Gay da Bahia (www.ggb.org.br, accessed 6 January 2009), a bill proposing the recognition of same-sex civil unions was introduced in 1995. Despite being put to discussion several times since then, it has never been voted (see the text of the bill at www.ggb.org.br/projetolei_1151.html). According to the GLS section of Brazilian newspaper *O TEMPO* of 27 December 2008, a new bill aimed at allowing same-sex couples to register their partnerships is expected to be introduced in 2009. In the first Brazilian LGBT Conference, in June 2008, President Lula delivered a speech claiming to be in favour of the legalization of civil unions between homosexuals.

⁸⁴ In Brazil adoption by same-sex partners is not allowed. And when discussing a bill for a new adoption law in 2008, the Chamber of Deputies rejected the proposal for joint adoption by same-sex partners (see the GLS section of Brazilian newspaper *O TEMPO* of 27 December 2008). Nevertheless, it has been reported that in a few cases several courts in the country have allowed adoption by same-sex partners ###. According to Reding (2003, p.28), in October 2001, a judge in Santa Luzia, in the state of Minas Gerais, approved the adoption of a 2 year old girl by an openly gay couple. Another example came when on 5 April 2006 the Court of Justice of the state of Rio Grande do Sul granted a lesbian couple the right to jointly adopt a child (see <http://glsplanet.terra.com.br/trilegal/trilegal26.shtml>, accessed 6 January 2009). A third example of joint adoption by a same-sex couple was reported about a court in São Paulo (see the newspaper *Folha de São Paulo* of 23 November 2006, <http://www1.folha.uol.com.br/foha/cotidiano/ult95u128520.shtml>, accessed 6 January 2009). And early October 2008, a same-sex male couple was granted the right to adopt two sisters in Recife, capital of Pernambuco (see <http://pfdc.pgr.mpf.gov.br/clipping/outubro-2008/casal-homossexual-consegue-adocao-inedita/>, accessed 7 February 2009). Furthermore, it is interesting to note that (according to Reding 2003, p.28) in January 2002, a juvenile court judge in Rio de Janeiro assigned custody of the eight-year-old son of deceased rock star Cassia Eller to her lesbian partner ###.

⁸⁵ In Rio Grande do Sul, Law 11.872 of 19 December 2002 prohibits sexual orientation discrimination in several fields including employment and goods and services (text available at www.abglt.org.br/port/leiest11872.htm, accessed 1 February 2009).

⁸⁶ Idem.

⁸⁷ In Rio Grande do Sul it has been made possible for same-sex and different-sex partners living (or intending to live) in an affective *de facto* relationship, with or without property arrangement, to register documents relating to their relationship. This possibility has been created by a leading magistrate, the *Corregedor-Geral da Justiça*, of the *Colégio Registral do Rio Grande do Sul*. He did so on 17 February 2004, by inserting a new paragraph in article 215 of the *Concolidação Normativa Notarial Registral* (text available at www.colegioregistrals.org.br/provimento_imprime.asp?cod=183, accessed 6 January 2009, see also <http://news.bbc.co.uk/2/hi/americas/3534959.stm>). On its own, this provision does not seem to create a form of registered partnership. However, it is possible that courts and others will attach important legal consequences to the registration now made possible. If that is happening, this could perhaps be called the first registered partnership scheme in Brazil ###.

⁸⁸ In the state of Rio de Janeiro, Law 3406 of 15 May 2000 prohibits sexual orientation discrimination in several fields including employment and goods and services (text available at www.arco-iris.org.br/prt/leis/c_leis_3406.htm, accessed 1 February 2009).

⁸⁹ Idem.

⁹⁰ Since 15 May 2007 same-sex partners of employees of public services are granted full benefits in Rio de Janeiro (Law 215/07; see www.arco-iris.org.br/prt/noticias/c_lei_pensao_servidores.php, accessed 1 February 2009).

⁹¹ Article 10.III of the Constitution of Mato Grosso (available at www.dhnet.org.br/dados/lex/a_pdf/constituicao_mt.pdf; see also Wintemute 2001, p. 781) assures that no one will be prejudiced or privileged because of their sexual orientation.

⁹² Idem.

⁹³ Article 3.II of the Constitution of Sergipe (available at www.ouvidoriageral.se.gov.br/modules/wfdownloads/visit.php?cid=1&lid=4; see also Wintemute 2001, p. 781) assures protection against sexual orientation discrimination.

⁹⁴ Idem

⁹⁵ Article 2.1 of the Constitution of Alagoas (available at www.tj.al.gov.br/organizacao/ConstituicaoodeAlagoasemPDF.pdf) since 2001 says that the state will guarantee dignity and equal opportunities regardless of sexual orientation.

⁹⁶ Idem.

⁹⁷ The Federal District has legislation against sexual orientation discrimination in employment (Law 2.615 of 26 October de 2000, available at www.abglt.org.br/port/leiest2615.htm, accessed 1 February 2009) and also a constitutional prohibition of sexual orientation discrimination (Article 2.I of the *Lei Orgânica do Distrito Federal* of 8 June 1993, available at www.concursosjuridicos.com.br/editais/DF%20-%20Lei%20Org%C3%A2nica.pdf, accessed 6 February 2009).

⁹⁸ Idem.

⁹⁹ In the state of Sao Paulo, Law 10.948 of 5 November 2001 prohibits sexual orientation discrimination in several fields including employment and goods and services (text available at www.abglt.org.br/port/leiest10948.htm, accessed 1 February 2009).

¹⁰⁰ Idem.

¹⁰¹ Article 4.IV of the Constitution of Santa Catarina (available at www.alesc.sc.gov.br/al/constituicao/CES_2006_45_emds_311006.pdf) since 2002 says that 'the law will punish with sanctions of administrative, economic and financial nature the bodies/entities that discriminate on the basis of ... sexual orientation ...'. In addition to the Constitution, Law 12574/03 of 4 April 2003 (available at www.ess.ufrj.br/diversidadese sexual/site/leis/legislacoes.php?id_content=29) prohibits sexual orientation discrimination.

¹⁰² Idem.

¹⁰³ In Minas Gerais, Law 14170 of 15 January 2002 prohibits discrimination in several fields including employment and goods and services (text available at www.abglt.org.br/port/leiest14170.htm, accessed 1 February 2009).

¹⁰⁴ Idem.

¹⁰⁵ In Paraíba, Law 7.309 of 10 January 2003 prohibits sexual orientation discrimination in several fields including employment and goods and services (text available at www.abglt.org.br/port/leiest7309.html, accessed 1 February 2009).

¹⁰⁶ Idem.

¹⁰⁷ In Piauí, Law 5.431/2004 of 22 December 2004 prohibits sexual orientation discrimination in several fields including employment and goods and services (text available at www.piaui.pi.gov.br/atual/materia.php?id=16808, accessed 5 February 2009).

¹⁰⁸ Idem.

¹⁰⁹ In Mato Grosso do Sul, Law 3.157 of 27 December 2005 prohibits sexual orientation discrimination in several fields including employment and goods and services (text available at www.abglt.org.br/port/leiest3157.html, accessed 1 February 2009).

¹¹⁰ Idem.

¹¹¹ In Maranhão, Law 8.444 of 31 July 2006 prohibits sexual orientation discrimination in several fields including employment and goods and services (text available at www.abglt.org.br/port/leiest8444.html, accessed February 5th 2009).

¹¹² Idem.

¹¹³ Article 3.IV of the Constitution of Pará (available at www.senado.gov.br/mariocouto/Constitui%C3%A7%C3%A3o-Par%C3%A1-Senado.doc) says that the state of Pará will act to avoid sexual orientation discrimination.

¹¹⁴ Idem.

¹¹⁵ In the state of Bahia there is probably no legislative prohibition of sexual orientation discrimination, although it seems that there was a proposal in 1999 (see www.abglt.org.br/port/projetoleiestba.htm). There is a municipal law in the capital of Bahia, Salvador, which was sanctioned in 1997 (see www.abglt.org.br/port/leim5275.htm).

¹¹⁶ Idem.

¹¹⁷ Since 1946 French Guiana is a *département et région d'outre-mer* of France (see Wikipedia, 'French Guiana', accessed 9 November 2008). Most French law applies (see Reding 2003, p. 66). For French law, see table 17 ###.

¹¹⁸ See Ottosson 2008, p. 45.

¹¹⁹ According to the article 272 of the Penal Code of Uruguay, the minimum age for homosexual and heterosexual acts is 15 years (see www.parlamento.gub.uy/Codigos/CodigoPenal/l2t10.htm, accessed 7 January 2009). According to Wikipedia ('LGBT rights in Uruguay', accessed 17 February 2009) this has been so since decriminalisation took place in 1934 ###.

¹²⁰ In Uruguay Law 17677 of 29 July 2003 amended article 149 of the Penal Code to ban any act of hatred, contempt or violence (or incitement thereto) on the basis of several grounds including sexual orientation and gender identity. The full text of the law in Spanish can be found at www.parlamento.gub.uy/Leyes/Ley17677, and the English translation of the additions to article 149 at www.iglhrc.org/cgi-bin/iowa/article/takeaction/globalactionalerts/588.html, accessed 8 February 2009. This could be seen as a prohibition of some forms of discrimination ###. Furthermore, Law 17817 of 6 September 2004 established a Commission against Racism, Xenophobia and every other form of Discrimination. Article 2 defines discrimination as including discrimination on grounds of 'orientación e identidad sexual', but this law does not seem to prohibit discrimination (see www.parlamento.gub.uy/leyes/Ley17817, accessed 7 January 2009) ###.

¹²¹ Idem.

¹²² In Uruguay Law 18246 of 27 December 2007 introduced the concept of 'unión concubinaria'. The law was published 10 January 2008 (see the full text at www.parlamento.gub.uy/leyes/Ley18246) and took effect in (or around ###) January 2008. It gives legal recognition to the cohabitation (lasting for more than five years) of two people irrespective of their sexual identity, orientation or choice. Certain legal consequences are connected to being in such a union, including a mutual duty of support and certain rights in the fields of social security and rent law. The partners can also create a community of property between them, but only if they go to court and have their union judicially recognized and then registered in the National Registry; therefore the 'unión concubinaria' can also be classified as a form of civil union or registered partnership.

¹²³ Idem.

¹²⁴ According to Wikipedia ('LGBT rights in Uruguay', accessed 17 February 2009) a bill to allow adoption by same-sex partners is currently being debated in parliament ###.

¹²⁵ On 25 November 1997 the Constitutional Tribunal of Ecuador considered as unconstitutional the first section of Article 516 of the Penal Code which until then criminalized homosexuality (see www.tribunalconstitucional.gov.ec/admcon/adm_cont.nsf/0/0A3FBBC2F20AD5560525713100603C5A, accessed 10 January 2009).

¹²⁶ In Ecuador there is a general age of consent of 14 (see www.avert.org/aofconsent.htm, accessed 3 February 2009; and see articles 506, 507, 512 and 513 of the Penal Code, available at www.dlh.lahora.com.ec/paginas/judicial/PAGINAS/Codpenal.3.html). This is probably so since 1997 (see previous note) ###.

¹²⁷ Since 1998 the Constitution of Ecuador first prohibited discrimination on grounds of 'orientación sexual' in article 23 (see Wintemute 2001, p. 781). In the new constitution adopted 28 September 2008 (in force since 20 October 2008) the prohibition can be found in article 11(2), which now also prohibits discrimination on grounds of 'identidad de género', 'estado civil' and 'portar VIH' (see http://asambleaconstituyente.gov.ec/documentos/Nueva_Constitucion_del_Ecuador.pdf, accessed 10 January 2009). In addition, article 66(9) of the new constitution guarantees: '*El derecho a tomar decisiones libres, informadas, voluntarias y responsables sobre su sexualidad, y su vida y orientación sexual*' (the right to take free, informed, voluntary and responsible decisions regarding one's sexuality, one's sexual life and one's sexual orientation).

¹²⁸ Idem.

¹²⁹ The new Constitution of Ecuador adopted 28 September 2008 (in force since 20 October 2008) (http://asambleaconstituyente.gov.ec/documentos/Nueva_Constitucion_del_Ecuador.pdf, accessed 10 January 2009) includes article 69, which conditionally guarantees unmarried de facto couples the same rights as married couples (but reserving adoption to different sex couples). Implementing legislation is still necessary. Article 68 defines marriage as a union between a man and a woman. It is not yet clear if article 69 will lead to legislation introducing a form of registered partnership ###.

¹³⁰ Idem.

¹³¹ Idem.

¹³² Idem.

¹³³ See Ottosson 2008, p. 45.

¹³⁴ Articles 208, 209 and 212 of the Penal Code of Colombia (www.derechos.org/nizkor/colombia/doc/penal.html, accessed 7 January 2009) seem to establish that any sexual activity with individuals younger than 14 years old – whether it is oral, vaginal or anal sex – is considered as a violent act. It is unclear since when such an equal age limit has been in force ###. However, according to an Interpol report on sexual offences against children (www.interpol.int/Public/Children/SexualAbuse/NationalLaws/CsaColombia.pdf, accessed 7 January 2009), the age of consent for sexual activity in Colombia would be 12 for women and 14 for men ###.

¹³⁵ Article 58 of the Penal Code of Colombia provides for higher sentences in cases where a crime has been committed because of intolerance or discrimination with respect to any of several grounds, including sexual orientation (www.derechos.org/nizkor/colombia/doc/penal.html, accessed 7 January 2009); according to the group Colombia Diversa (www.colombiadiversa.org/index.php?option=com_content&task=view&id=584&Itemid=469, accessed 7 January 2009), this is so since 2000 ###. It does not amount to a prohibition of discrimination. Ottosson's suggestion that since 2007 Colombia has had legislation prohibiting sexual orientation discrimination in employment (2008, p. 46) is not confirmed by the group Colombia Diversa or by Wikipedia ('LGBT rights in Colombia', accessed 17 February 2009) ###.

¹³⁶ Idem.

¹³⁷ The first legal recognition of same-sex partners in Colombia came when the Supreme Court recognised their right to intimate visits in prison. It is unclear whether this happened in 2001 (see Reding 2003, p. 35) or in 2003 (see Colombian LGBT group Colombia Diversa, www.colombiadiversa.org/index.php?option=com_content&task=view&id=584&Itemid=469, accessed 7 January 2009). Several further rulings of the Supreme Court have been reported, extending in 2007 inheritance, social security and health insurance rights to same-sex partners provided they prove two years of cohabitation (see Pink News, www.pinknews.co.uk/news/articles/2005-5666.html, accessed 10th January 2009, and the International Herald Tribune, www.iht.com/articles/ap/2007/10/06/america/LA-GEN-Colombia-Gay-Rights.php, accessed 10th January 2009), and recognising (in 2008) the right to a survivor's pension (see www.colombiadiversa.org/index.php?option=com_content&task=view&id=584&Itemid=469, accessed 10 January 2009, http://es.wikipedia.org/wiki/Derechos_del_colectivo_LGBT_en_Colombia, accessed 10 January 2009). According to Colombia Diversa (www.colombiadiversa.org/index.php?option=com_content&task=view&id=634, accessed 7 February 2009), the Constitutional Court ruled on 27 January 2009 that same-sex couples must have the same rights as heterosexual couples, with the exception of adoption and marriage ###. According to Wikipedia in 2007 bills to legislate to the same effect failed to get adopted ('LGBT rights in Colombia', accessed 17 February 2009) ###.

¹³⁸ Idem.

¹³⁹ Idem.

¹⁴⁰ See Ottosson 2008, p. 45.

¹⁴¹ In Argentina, there seems to be an equal age of consent (see www.avert.org.aofconsent, accessed 6 February 2009) ###.

¹⁴² In Argentina, an amendment to include discrimination based on sexual orientation and gender identity among the discriminatory practices forbidden by the national anti-discrimination law (Ley 23592) was adopted on 4 December 2003 (see the website of Argentinean LGBT organisation CHA, www.cha.org.ar/articulo.php?art=188&cat=5, accessed 4 February 2009), but it seems that it never became law (www.cha.org.ar/listado-articulos.php?menu=3&cat=8, accessed 4 February 2009) ###.

¹⁴³ Idem.

¹⁴⁴ In August 2008, the Administración Nacional de la Seguridad Social of Argentina granted same-sex couples the right to collect the pensions of their dead partners (Resolution 671/2008; www.cha.org.ar/listado-articulos.php?menu=3&cat=8, accessed 4 February 2009, and also <http://edition.cnn.com/2008/WORLD/americas/08/19/argentina.gay/>, accessed 10 January 2009).

¹⁴⁵ In Argentina a bill on the opening up of marriage has been debated in the Chamber of Deputies since 30 April 2007 (for the text of the bill and the explanatory memorandum, see <http://www1.hcdn.gov.ar/proyxml/expediente.asp?fundamentos=si&numexp=1907-D-2007>, accessed 14 January 2009).

¹⁴⁶ Article 11 of the Constitution of the Province of Buenos Aires (see Wintemute 2001, p. 782). According to Reding (2003, p.19), on 30 August 1996, the capital of Argentina, Buenos Aires, was the first Spanish-speaking city in Latin America to ban discrimination on the basis of sexual orientation.

¹⁴⁷ Idem.

¹⁴⁸ In the Province of Buenos Aires, in January 2001, legislators adopted a new Law on Domestic Violence (*Ley 12569 de Violencia Familiar*), allowing same-sex partners to benefit from government programs to protect victims of domestic violence, and to file charges against violent partners (see Reding 2003, p. 20, and the full text of the law at www.mseg.gba.gov.ar/dgcpq/ley%2012569.htm, accessed 9 February 2009).

¹⁴⁹ In Buenos Aires Law 1004 on Civil Union was adopted in December 2002 and promulgated in 2003 (see the text at www.cha.org.ar/listado-articulos.php?menu=3&cat=6, accessed 4 February 2009). According to the LGBT organisation CHA, the law entered into force on 14 July 2003 (see www.cha.org.ar/html/artunioncivilbsas/lanacion/030530.htm, accessed 8 February 2009; see also Ottosson 2008, p. 47). Article 1 of the law does not only require the partners (of any sex or sexual orientation) to register their union in a public register, but also to have lived together for a minimum of two years. According to article 4 they will tend be treated 'similar al de los cónyuges' ###.

¹⁵⁰ According to Wikipedia ('Civil Union in Argentina', accessed 4 February 2009), civil union has been possible in Rio Negro since 2003 ###.

¹⁵¹ According to Wikipedia ('Civil Union in Argentina', accessed 4 February 2009), a judge in December 2005 has ordered jails and prisons across the province of Córdoba to authorize conjugal visits by same-sex partners of prisoners ###.

¹⁵² It has been reported by the Argentinean newspaper Clarin that the city of Villa Carlos Paz in the province of Cordoba legalized same-sex civil union in November 2007 (see www.clarin.com/diario/2007/11/23/um/m-01547228.htm, accessed 10 January 2009). Unlike in Buenos Aires and Rio Negro, where the couple must be living together at least for 2 years, the law in Carlos Paz would require at least 5 years ###.

¹⁵³ On 20 December 1996, the city of Rosario in the province of Santa Fe approved an ordinance against sexual orientation discrimination. This ordinance was amended several times since then in order to increase its protection (see www.concejorosario.gov.ar/proyectos/Ord6321.pdf and also www.rosario.gov.ar/normativa/verArchivo?tipo=pdf&id=44599, both accessed 8 February 2009).

¹⁵⁴ Idem.

¹⁵⁵ On 15 June 2006 another ordinance was passed in the city of Rosario recognizing the right to pension for the same-sex partners of municipal employees (see www.notivida.com.ar/legmunicipal/Rosario%20Ordenanza%208004.html, accessed 8 February 2009).

¹⁵⁶ Ottosson (2008, p. 45) does not mention the year of decriminalisation in Bolivia ###.

¹⁵⁷ According to article 14 of the new constitution of Bolivia adopted on 25 January 2009 (in force since 7 February 2009) discrimination based on 'orientación sexual' or 'identidad de género' is forbidden (the text of the constitution is available at www.cne.org.bo/proces_electoral/REfConstitucion2009/documentos/TextoCPE.pdf).

¹⁵⁸ Idem.

¹⁵⁹ Article 63 of the new constitution of Bolivia (see previous notes) attaches to the cohabitation of a woman and a man the same legal consequences as marriage.

¹⁶⁰ Article 63 of the new constitution of Bolivia (see previous notes) speaks of marriage as being between one woman and one man.

¹⁶¹ Ottosson (2008, p. 45) does not mention the year of decriminalisation in Venezuela ###.

¹⁶² In Venezuela, there seems to be an equal age of consent of 16 (see www.avert.org.aofconsent, accessed 6 February 2009) ###.

¹⁶³ In Venezuela the principle of non-discrimination is contained in a Presidential regulation based on the Labour Law. Article 8(e) of this 'Reglamento de la Ley Orgánica del Trabajo' of 1999 refers to arbitrary discrimination on many grounds, including 'preferencia sexual' (www.analitica.com/bitblo/venezuela/reglamento_ley_trabajo.asp, accessed 14 January 2009).

¹⁶⁴ See Ottosson 2008, p. 45. According to Wikipedia ('Homosexualidad en el Perú', accessed 14 January 2009), homosexual acts between adults are not considered illegal, except for military and police personnel, who can be punished with between 60 days to 20 years imprisonment or discharge from the forces ###.

¹⁶⁵ In Peru, there seems to be an equal age of consent of 14 (see www.avert.org.aofconsent, accessed 6 February 2009) ###.

¹⁶⁶ According to Peruvian LGBT group 'MHOL' in October 2008 the first case of sexual orientation discrimination was pending before the Supreme Court (see www.mhol.org.pe/index.php?option=com_content&view=article&id=94:diario-el-comercio-el-primer-caso-de-discriminacion-orientacion-sexual-en-peru&catid=1:noticias-peru&Itemid=30, accessed 14 January 2009) ###.

¹⁶⁷ In Chile decriminalisation of sodomy between adults took place in 1999. Graupner (2005, p. 145 and 148) refers to a law of 1998, but the actual law that amended article 365 seems to be Law 19617, published on 12 July 1999, available at www.bcn.cl/leyes/138814.

¹⁶⁸ According to the Chilean Penal Code (as it read in 2008, see www.bcn.cl/leyes/1984, accessed 14 January 2009), the minimum age for heterosexual acts is set at 14 (article 362, amended in 2004) and for homosexual acts at 18 (article 365, amended in July 1999, see previous note). This contradicts information provided by Graupner (2005, p. 145) who claims an age limit of 20 years applies, and also information by Wikipedia ('LGBT rights in Chile', accessed 2 November 2008) suggesting that the minimum age for heterosexual acts is set at 12, and for homosexual acts at 18 ###.

¹⁶⁹ According to Chilean LGBT group 'MOVILH' (www.movilh.cl/index.php?option=com_content&task=view&id=582&Itemid=1, accessed 14 January 2009), several bills aimed at introducing civil unions for same-sex couples have been proposed since 2003 ###. On 6 March 2008, deputy Marco Enríquez and MOVILH introduced two bills in the National Congress aimed at opening up marriage and at introducing civil unions for same-sex couples (see www.movilh.cl/index.php?option=com_content&task=view&id=582, accessed 9 February 2009).

¹⁷⁰ On 6 March 2008, deputy Marco Enríquez and MOVILH introduced two bills in the National Congress aimed at opening up marriage and at introducing civil unions for same-sex couples (see www.movilh.cl/index.php?option=com_content&task=view&id=582, accessed 9 February 2009).

¹⁷¹ Ottosson (2008, p. 45) does not mention the year of decriminalisation in Paraguay ###.

¹⁷² Until the entry into force on 1 May 1869 of the *Wetboek van Strafrecht voor de Kolonie Suriname* (Penal Code for the Suriname Colony), the *Constitutio Criminalis Carolina* of 1532 (article 116 of which criminalised impure acts between women and between men, see http://de.wikipedia.org/wiki/%C2%A7_175, accessed 6 February 2009), had been applied in Suriname (see M.R. Wijnholt, *Strafrecht in Suriname*, Deventer: Kluwer 1965, p. 27-42). The Penal Code of 1869 did not criminalise homosexual acts.

¹⁷³ A higher age limit for homosexual acts was introduced in Suriname in 1915 (first article 253bis, later article 302 of the Suriname Penal Code, see O.R. Hofwijk, *Wetboek van Strafrecht*, Paramaribo: De West 1996, p. 126). It prohibits indecency by an adult man or woman with a minor of the same sex. It is still in force (although it does not figure in the text of parts of the Penal Code published by the Suriname Ministry of Justice at www.juspolsuriname.org/wetgeving/wetgeving.htm, accessed 17 February 2009). Also according to Reding (2003, p. 68) article 302 is still in force, but seldom enforced. In a recent draft for a new Penal Code, article 302 remains as it is (see J. Koers, *Wetboek van Strafrecht Suriname: concept*, Nijmegen: Wolff 2005, p. 144). The age limit for sex between men or between women is 21, because the age of majority in Suriname is 21 (according to article 382 of the Civil Code, see A.J. Sehablal, *Burgerlijk Wetboek van Suriname*, Paramaribo: De West 2006, p. 142). In the draft for a new Civil Code it is being proposed to lower this age to 18 (article 233 of Book 1 of the proposed new Civil Code, available at the website of the Suriname Ministry of Justice (www.juspolsuriname.org/wetgeving/wetgeving.htm, accessed 17 February 2009). Wikipedia ('Legislación LGBT en América latina y el Caribe', accessed 17 February 2009) and www.avert.org.aofconsent (accessed 6 February 2009) suggest that the age limit for sexual acts between women or between men is already 18 (and the age limit for heterosexual acts 16), but that information is probably incorrect ###.

¹⁷⁴ Buggery and gross indecency between men are still crimes in Guyana (see Ottosson 2008, p. 17, and sections 351, 352 and 353 of the Criminal Law (Offences) Act, available at www.gina.gov.gy/gina_pub/laws/Laws/cap801.pdf).

¹⁷⁵ Reding (2003, 77) reports that in February 2001, the National Assembly of Guyana unanimously (55-0) approved a constitutional amendment that would have prohibited sexual orientation discrimination, but that in response to protests by religious groups President Bharrat Jagdeo has vetoed the amendment.

¹⁷⁶ Idem.

¹⁷⁷ In Mexico homosexual acts between adults were decriminalised in 1872 (see Ottosson 2008, p. 45).

¹⁷⁸ According to Wikipedia ('Ages of consent in North America', accessed 9 November 2008) the age limits are equal ###. This is also the case according to www.avert.org/aofconsent.htm, accessed 3 February 2009, which adds that the federal on this point is often overruled by state laws ###. In general the federal age limit is 12 (see article 261 and 266 of the Penal Code, as amended in January 1991). The full text of the Penal Code is available at www.unifr.ch/ddp1/derechopenal/legislacion/l_20080616_62.pdf, where it says that both articles have been amended in January 1991. It is not clear if the age limits were different before 1991 ###.

¹⁷⁹ The Constitution of Mexico prohibits discrimination in article 1, which was amended in 2001 to include the word 'preferencias' among the forbidden grounds of discrimination (see the consolidated version of the constitution at www.diputados.gob.mx/LeyesBiblio/pdf/1.pdf). In 2003 the Federal Law to Prevent and Eliminate Discrimination was adopted (published on 11 June 2003, see www.conapred.org.mx/english/antecedents.html, accessed 17 February 2009), which explicitly prohibits discrimination based on sexual preferences (see article 4, at www.cddhcu.gob.mx/LeyesBiblio/pdf/262.pdf). This Federal Law also created a body to enforce the law, the National Council to Prevent Discrimination (see www.conapred.org.mx/english/what.html, accessed 5 February 2009). The law covers employment, education, health care, and much more (see Reding 2003, p. 56-57) #####.

¹⁸⁰ Idem.

¹⁸¹ The Penal Code of Federal District is very similar to the federal one. Articles 175 and 177 provide an equal age limit of 12 (see www.unifr.ch/ddp1/derechopenal/legislacion/l_20080616_63.pdf, accessed 6 February 2009). However it is unclear if these articles were included on the first version of the code, in 1931, or only on the new code of 2002 ###. It has been reported that in 1998 the Chamber of Deputies of Mexico voted to remove all anti-homosexual language from the Penal Code of the Federal District. Until then article 201 listed homosexuality as an aggravating factor for the crime of corruption of minors (see Reding 2003, p. 56) ###.

¹⁸² According to Reding (2003, p.58), in September 1999, the Legislative Assembly of the Federal District passed an ordinance banning discrimination based on sexual orientation, which took effect on 1 October 1999, as an amendment to article 281bis of the Federal District Penal Code (see also Wintemute 2001, p. 785). Currently article 206 of that Penal Code prohibits discrimination (see www.unifr.ch/ddp1/derechopenal/legislacion/l_20080616_63.pdf, accessed 6 February 2009).

¹⁸³ Idem.

¹⁸⁴ In the Federal District of Mexico on 9 November 2006, the '*Ley de Sociedad de Convivencia*' was approved, allowing same-sex couples to register their partnership. This law, which grants many of the rights attached to marriage, except adoption, came into force on 16 March 2007 (see www.consejeria.df.gob.mx/gaceta/pdf/noviembre06_16_136.pdf, accessed 6 February 2009).

¹⁸⁵ On this point the Penal Code of Coahuila is very similar to the Federal District Penal Code (see articles 386 and 389 at www.ordenjuridico.gob.mx/Estatal/COAHUILA/Codigos/COAHCOD06.pdf, accessed 6 February 2009). These articles were included since the first version of the code of 1 September 1999.

¹⁸⁶ Article 383bis of the Penal Code of Coahuila, added on 1 September 2006, is almost the same as Article 206 from the Federal District Penal Code. The only difference is the penalty: from 6 months to 3 years of imprisonment and fine (see: www.ordenjuridico.gob.mx/Estatal/COAHUILA/Codigos/COAHCOD06.pdf, accessed 6 February 2009).

¹⁸⁷ Idem.

¹⁸⁸ The state of Coahuila on 11 January 2007 adopted a law introducing the *Pacto Civil de Solidaridad*. (see <http://sgob.sfpcoahuila.gob.mx/admin/uploads/Documentos/modulo3/PactoCivilSolidaridad.pdf>, accessed 6 February 2009). This law is very similar to that adopted in the Federal District on de *Sociedad de Convivencia*.

¹⁸⁹ On this point the Penal Code of Aguascalientes is very similar to the Federal District Penal Code (see articles 121 and 125 at www.amdh.com.mx/ocpi/pj/mj/docs/ac_cp.pdf, accessed 6 February 2009). It is not clear whether these articles exist since the first version of the code of 1949, or were included in the latest version from 2001. It should be noted however, that article 191 of this code lists homosexuality as an aggravating factor for the crime of corruption of minors.

¹⁹⁰ Article 205bis of the Penal Code of Aguascalientes (see Wintemute 2001, p. 785) is almost the same as article 206 from the Federal District Penal Code. The only difference is the penalty: from 6 months to 2 years of imprisonment and 15 to 50 days of fine (see: www.amdh.com.mx/ocpi/pj/mj/docs/ac_cp.pdf, accessed 6 February 2009).

¹⁹¹ Idem.

¹⁹² See articles 153bis to 157bis of the Penal Code of Chiapas (www.amdh.com.mx/ocpi/pj/mj/docs/chi_cp.pdf, accessed 19 February 2009).

¹⁹³ Article 207bis of the Penal Code of Chiapas, added on 22 August 2001 (www.amdh.com.mx/ocpi/pj/mj/docs/chi_cp.pdf, accessed 6 February 2009) prohibits discrimination on grounds of sexual orientation.

¹⁹⁴ Idem.

¹⁹⁵ According to Reding (2003, p. 56) there are still various states which continue to list homosexuality as an aggravating factor for the crime of corruption of minors ###.

¹⁹⁶ It seems that in Costa Rica homosexual acts between adults in private have been decriminalised already during the late 19th century (see Wikipedia, 'LGBT rights in Costa Rica', accessed 20 February 2009) ###. However, article 382 of the Penal Code in force since 15 May 1971 (available at www.oas.org/Juridico/MLA/sp/cri/sp_cri-int-text-cpenal.pdf) provides that it is a crime to practice 'sodomia' in a scandalous form (see also Ottosson 2008, p. 12-13). Furthermore, according to article 98 of the Penal Code, when a defendant's homosexuality is 'habitual' and has determined his offence, security measures can be applied, such as psychiatric treatment and a prohibition to frequent certain places (see articles 100 to 102).

¹⁹⁷ Article 159 of the Penal Code of Costa Rica provides an equal age limit of 15. According to Wikipedia is already so since the current Penal Code entered into force in 1971 ('LGBT rights in Costa Rica', accessed 20 February 2009), but article 159 has also been amended in by a law of 3 August 1999 (see the text of the Penal Code at www.oas.org/Juridico/MLA/sp/cri/sp_cri-int-text-cpenal.pdf) ###.

¹⁹⁸ In Costa Rica article 48 of the Ley General sobre el VIH SIDA (text available at www.gnppplus.net/criminalisation/images/stories/documents_latin_america/costa_rica_hiv_general_law.pdf) prohibits discrimination on the basis of 'opción sexual' (see also Wintemute 2001, p. 784).

¹⁹⁹ Idem.

²⁰⁰ According to Reding (2003, p.45), in June 2003 the National Insurance Institute has stated that a (public ####) employee covered under mandatory public health or life insurance can nominate a same-sex partner as beneficiary ####.

²⁰¹ The entry into force of a new Penal Code in Nicaragua (Law 641, available under 'Codigos – 2008' at <http://legislacion.asamblea.gob.ni/Normaweb.nsf/Normas?openview>) meant the decriminalisation of 'sodomy', which until then had been prohibited in article 204 of the old Penal Code (see Ottosson 2008, p. 6). It is not quite clear on what date the Penal Code entered into force. According to article 568 this should be sixty days after its publication. After publication of a small part of the code on 3 December 2007 (which led Ottosson 2008, p. 6, to believe that it entered into force on 1 February 2008), the complete code only got published on 5 to 9 May 2008, which would put its entry into force early in July 2008 (see www.laprensa.com.ni/archivo/2008/septiembre/11/noticias/opinion/282535.shtml). Wikipedia ('LGBT rights in Nicaragua', accessed 20 February 2009) suggests it came into force on 1 March 2008 ####.

²⁰² The new Penal Code in Nicaragua (see previous note) provides various equal ages of consent (see article 167-183).

²⁰³ Article 315 of new Penal Code in Nicaragua (see previous note) prohibits discrimination in employment, including 'opción sexual' as one of the forbidden grounds. See Ottosson 2008, p. 6 and 46. Furthermore, discrimination on grounds of 'orientación sexual' is one of the aggravating circumstances of penal responsibility (see art. 35(5)).

²⁰⁴ In Panama, until 2008, article 12 of Decree 149 of 20 May 1949 (on prostitution, public hygiene and public morality) criminalised 'Sodom' and other 'vicious de degeneration sexual' (text available at www.asylumlaw.org/docs/sexualminorities/Panama121107.pdf). Article 12 has been repealed by Decree 332 of 29 July 2008, which came into force on 31 July 2008 (text available at www.gacetaoficial.gob.pa/pdfTemp/26095/12345.pdf).

²⁰⁵ The new Penal Code of Panama (published on 9 June 2008, text available at www.unifr.ch/ddp1/derechopenal/legislacion/l_20080630_02.pdf) provides equal ages of consent in articles 171-187. According to its article 452 it will enter into force one year after its promulgation, so presumably on 9 June 2009 ####. It seems that the ages of consent were already equal under the preceding version of the Penal Code (see for example www.acnur.org/biblioteca/pdf/01036.pdf) ####, but see also the previous note.

²⁰⁶ Ottosson (2008, p. 45) does not mention the year of decriminalisation in El Salvador ####.

²⁰⁷ According to Wikipedia ('Ages of consent in Central America', accessed 9 November 2008) the age limits are equal in El Salvador ####.

²⁰⁸ Ottosson (2008, p. 45) does not mention the year of decriminalisation in Guatemala ####. According to GLBTQ (www.glbtq.com/social-sciences/guatemala.html, accessed 11 February 2009), homosexuality was decriminalized after the revolution of 1871 ####.

²⁰⁹ According to Wikipedia ('Ages of consent in Central America', accessed 9 November 2008) and www.avert.org/aofconsent (accessed 3 February 2009) the age limits are equal in Guatemala ####.

²¹⁰ Ottosson (2008, p. 45) does not mention the year of decriminalisation in Honduras ###. According to Reding (2003, p. 53-54) the police uses laws on 'morality and public decency' to charge gay men (and occasionally lesbians) who are expressing physical affection in public.

²¹¹ According to Wikipedia ('Ages of consent in Central America', accessed 9 November 2008) the age limits are equal in Honduras ###.

²¹² Article 112 of the Constitution of Honduras, as amended by Decree 36/2005 of 4 May 2005, specifically prohibits same-sex marriage and same-sex *de facto* unions, while recognising different-sex *de facto* unions and the right of a man and a woman to marry each other. The same article states that foreign same-sex marriages and foreign same-sex *de facto* unions will not be considered valid in Honduras (see the text at <http://pdba.georgetown.edu/Constitutions/Honduras/hond05.html>, accessed 12 February 2009). Article 116, as amended by the same Decree, prohibits adoption of children by same-sex couples (married or *de facto*), which recognising the right of different-sex couples to adopt.

²¹³ *Idem*.

²¹⁴ *Idem*.

²¹⁵ *Idem*.

²¹⁶ In Belize 'carnal intercourse against the order of nature' between women or between men is still a crime (section 53 of the Criminal Code, text as on 31 December 2000 available at www.oas.org/JURIDICO/MLA/en/blz/en_blz-int-text-cc.pdf). Although section 53 must have been in force already at the end of 2000, and probably already before, Wikipedia ('LGBT rights in Belize', accessed 20 February 2009) states that homosexuality was re-criminalised in 2003 ###, thus implying that there had been de-criminalisation before. In that context Wikipedia refers to www.gaytimes.co.uk/Hotspots/GayGuide-action-Country-countryid-184.html, where indeed it is claimed that homosexuality 'was legalised in 1988' ###. Furthermore, section 5 of the Immigration Act, as it read on 31 December 2000, classifies 'any prostitute or homosexual or any person who may be living on or receiving or may have been living on or receiving the proceeds of prostitution or homosexual behaviour' as prohibited immigrants (see text of the Act at www.cicad.oas.org/oid/TDG/Belize/ImmigrationAct.pdf).

²¹⁷ See Ottosson 2008, p. 45. According to Reding (2003, p. 62) and Wikipedia ('LGBT rights in Cuba', accessed 11 November 2008) after 1979 several provisions (amended again in 1988 and 1997) on homosexuality in public, and on 'public scandal', continued to criminalise certain homosexual behaviour ###. These provisions can no longer be found in the current Penal Code available at www.gacetaoficial.cu/html/codigo_penal.html).

²¹⁸ In Cuba there seems to be an equal age of consent of 16 (see article 310 of the Penal Code ###, available at www.gacetaoficial.cu/html/codigo_penal.html). See also www.avert.org/aofconsent.htm and Wikipedia ('LGBT rights in Cuba', accessed 11 November 2008, suggesting there has been an equal age limit of 16 since 1979) ###.

²¹⁹ See Wikipedia ('LGBT rights in Cuba', accessed 20 February 2009) ###.

²²⁰ Ottosson (2008, p. 45) does not mention the year of decriminalisation in the Dominican Republic ###.

²²¹ Ottosson (2008, p. 45) does not mention the year of decriminalisation in Haiti ###. Wikipedia ('LGBT rights in Haiti', accessed 11 November 2008) suggests that decriminalisation took place in 1986 ###.

²²² Homosexual acts were decriminalized in the Bahamas in 1991 (see Ottosson 2008, p. 45). However, section 16 of the Sexual Offences and Domestic Violence Act 1991 (http://laws.bahamas.gov.bs/Statutes/statute_CHAPTER_99.html) still makes it a crime to have 'sexual intercourse' in public with someone of the same sex.

²²³ In the Bahamas 'sexual intercourse' with a someone of the same sex under 18 is a crime (sections 2 and 16 of the Sexual Offences and Domestic Violence Act 1991), whereas the age limit for heterosexual intercourse is 16 (section 11 of the same act, available at http://laws.bahamas.gov.bs/Statutes/statute_CHAPTER_99.html).

²²⁴ In Antigua and Barbuda 'buggery' between men, and 'serious indecency' between women or between men, is still a crime (see Ottosson 2008, p. 8, and sections 12 and 15 of the Sexual Offences Act, 1995, at www.laws.gov.ag/acts/1995/a1995-9.pdf).

²²⁵ In Barbados, 'buggery' between men, and 'serious indecency' between women or between men, is still a crime (see Ottosson 2008, p. 9, and sections 9 and 12 of the Sexual Offences Act of 1992 at www.caricomlaw.org/docs/Sexual%20Offences.pdf).

²²⁶ See Wikipedia ('Ages of consent in North America', accessed 9 November 2008) ###.

²²⁷ In Dominica 'buggery' between men, and 'gross indecency' between women or between men, is still a crime (see Ottosson 2008, p. 13).

²²⁸ In Grenada 'unnatural connexion' between men is still a crime (see Ottosson 2008, p. 16). This crime is understood as anal intercourse, and is also a crime if committed between a man and a women, but not between two women (see: *Sexuality, Gender, HIV Vulnerability & Human Rights in Grenada – A Shadow Report to the United Nations Human Rights Committee*, published in July 2007 by the Grenada Caribbean HIV/AIDS Partnership and several other organisations (available at http://www2.ohchr.org/english/bodies/hrc/docs/ngos/LGBTShadow_Grenada.pdf). The text of the relevant article of the Criminal Code of 1958 can be found in the Annex to that report (at http://www2.ohchr.org/english/bodies/hrc/docs/ngos/LGBTShadow_Grenada_annex.pdf).

²²⁹ In Jamaica 'buggery' or 'gross indecency' between men is still a crime (See Ottosson 2008, p. 20).

²³⁰ In Saint Kitts and Nevis 'buggery' between men is still a crime (see Ottosson 2008, p. 32).

²³¹ In Saint Lucia 'buggery' between men, and 'gross indecency' between women or between men, is still a crime (see Ottosson 2008, p. 32-33).

²³² In Saint Vincent and the Grenadines 'buggery' between men, and 'gross indecency' between women or between men, is still a crime (see Ottosson 2008, p. 33).

²³³ In Trinidad and Tobago 'buggery' between men, and 'serious indecency' between women or between men, is still a crime (and not only 'sexual acts between women' and 'buggery', as suggested by Ottosson 2008, p. 39 ###). See articles 13 and 16 of the Sexual Offences Act of 1986 (available at <http://rgd.legalaffairs.gov.tt/Laws/Chs.%2010-13/11.28/11.28.htm>); the maximum penalties in both articles have been increased by the Sexual Offences (Amendment) Act of 2000 (available at www.moe.gov.tt/general_pdfs/sexual_offenses_act_00.pdf).

²³⁴ For Greenland see (European) table 20, and for Iceland (European) table 19. See also table 4 (Islands around Africa).

²³⁵ Martinique was a French colony. Now it is a *département et région d'outre-mer* of France (see Wikipedia, 'Martinique', accessed 9 November 2008). Most French law applies ### (see table 17).

²³⁶ Guadeloupe was a French colony. Since 1946 it is a *département et région d'outre-mer* of France (see Wikipedia, 'Guadeloupe', accessed 9 November 2008). Most French law applies ### (see table 17).

²³⁷ Saint Martin was a French colony. Since 22 February 2007 it is a *collectivité d'outre-mer* of France, and no longer part of Guadeloupe (see Wikipedia, 'Saint Barthélemy', accessed 9 November 2008). Most French law applies ### (see table 17).

²³⁸ From 1976 Saint Pierre and Miquelon was a *territoire d'outre-mer* of France, and since 1985 it is a *collectivité d'outre-mer* (see Wikipedia, 'Saint Pierre and Miquelon', accessed 9 November 2008). Most French law applies ### (see table 17).

²³⁹ Saint Barthélémy was a French colony, sold to Sweden in 1784 and bought back in 1878. Since 22 February 2007 it is a *collectivité d'outre-mer* of France, and no longer part of Guadeloupe (see Wikipedia, 'Saint Barthélemy', accessed 9 November 2008). Most French law applies ### (see table 17).

²⁴⁰ Legislation decriminalising sodomy (including oral sex) was adopted in the US Virgin Islands on 18 October 1984, taking effect on 16 January 1985 (see George Painter, 'The Sensibilities of Our Forefathers - The History of Sodomy Laws in the United States', published 1991-2005 at www.glapn.org/sodomylaws/sensibilities/introduction.htm).

²⁴¹ In the US Virgin Islands an equal age limit of 16 applies since 1985 (see George Painter, 'The Sensibilities of Our Forefathers - The History of Sodomy Laws in the United States', published 1991-2005 at www.glapn.org/sodomylaws/sensibilities/virgin_islands.htm; and see the text of the current legislation: article 1709 of Chapter 85 of Title 14 of the Virgin Islands Code available at www.michie.com).

²⁴² When in 1811 homosexual acts were being decriminalised in the Netherlands, the islands now forming the Netherlands Antilles were being governed by the United Kingdom (1808-1816). It seems probable that until the entry into force of their first Penal Code in 1869, old Dutch (pre-Napoleonic) law was applied, (see J.M. Reijntjes, *Strafwetgeving van de Nederlandse Antillen*, Willemstad: Universiteit van de Nederlandse Antillen 1983, p. 5), so probably including its criminalisation of homosexuality ###. In 1869 the islands got their own Penal Code, largely based on the codes applicable in the Netherlands, so without any criminalisation of homosexual acts.

²⁴³ From 1913 until 2000 a higher age limit for homosexual acts applied in the Netherlands Antilles (article 255, prohibiting indecency by an adult man or woman with a minor of the same sex, was introduced when the Penal Code of 1913 came into force on the islands: *Wetboek van Strafrecht voor de kolonie Curaçao*, Royal Decree of 4 October 1913, published in *Publicatieblad* 1913, nr 67). Article 255 was abolished by the *Landsverordening* of 28 March 2000 (published in *Publicatieblad* 2000, nr. 28), which came into force on 1 April 2000. Since then a common age of consent of 15 applies (see articles 251 and 253 of the Penal Code, *Publicatieblad* 2000, nr. 28).

²⁴⁴ In 2007 the Dutch Supreme Court (Hoge Raad 13 April 2007, LJN AZ6095) ruled that same-sex marriages that were entered into in the Netherlands, and their legal consequences, have to be recognised in the other parts of the Kingdom of the Netherlands: Aruba and the Netherlands Antilles (the text of the judgment in Dutch is available at www.rechtspraak.nl/ljn.asp?ljn=AZ6095; see also Wikipedia, 'Same-sex marriage in Aruba', accessed 6 February 2009).

²⁴⁵ When in 1811 homosexual acts were being decriminalised in the Netherlands, Aruba and the other 'Dutch' islands in the Caribbean were being governed by the United Kingdom (1808-1816). It seems probable that until the entry into force of their first Penal Code in 1869, old Dutch (pre-Napoleonic) law was applied (see J.M. Reijntjes, *Strafwetgeving van de Nederlandse Antillen*, Willemstad: Universiteit van de Nederlandse Antillen 1983, p. 5), so probably including its criminalisation of homosexuality ###. In 1869 the islands got their own Penal Code, largely based on the codes applicable in the Netherlands, so without any criminalisation of homosexual acts.

²⁴⁶ Aruba separated from the other 'Dutch' islands in the Caribbean in 1986. From 1913 until 2003 255 of the Penal Code set a higher age limit for homosexual acts. This article was first introduced when the Penal Code of 1913 came into force on the island (*Wetboek van Strafrecht voor de kolonie Curaçao*, Royal Decree of 4 October 1913, published in *Publicatieblad* 1913, nr 67) and from 1991 was part of the Aruba Penal Code (adopted on 10 July 1991, published in *Afkondigingsblad van Aruba* 1991, nr. GT 50). Both versions of article 255 prohibited indecency by an adult man or woman with a minor of the same sex. It was finally abolished by *Landsverordening* of 15 August 2003 (published in *Afkondigingsblad van Aruba* 2003, nr. 47), which came into force on 22 August 2003. Since then a common age of consent of 16 applies (articles 251 and 253 of the Aruba Penal Code; consolidated version of this *Wetboek van Strafrecht* available at www.overheid.aw/index.asp?nmoduleid=19&wgid=6&sc=0&spagetype=21&nPageID=1833&nCMSPageType=1#Strafrecht).

²⁴⁷ In 2007 the Dutch Supreme Court (Hoge Raad 13 April 2007, LJV AZ6095) ruled that same-sex marriages that were entered into in the Netherlands, and their legal consequences, have to be recognised in the other parts of the Kingdom of the Netherlands: Aruba and the Netherlands Antilles (the text of the judgment in Dutch is available at www.rechtspraak.nl/ljn.asp?ljn=AZ6095; see also Wikipedia, 'Same-sex marriage in Aruba', accessed 6 February 2009).

²⁴⁸ Sex between two men over 18 in private has been decriminalised by the Caribbean Territories (Criminal Law) Order 2000 of the Privy Council (in London, UK), that entered into force on 1 January 2001 (see Robert Wintemute, 'Caribbean Criminalization', *Lesbian/Gay Law Notes*, June 2001, available at www.qrd.org/qrd/www/legal/lgl/06.01.html).

²⁴⁹ Sex between two men over 18 in private has been decriminalised by the Caribbean Territories (Criminal Law) Order 2000 of the Privy Council (in London, UK), that entered into force on 1 January 2001 (see Robert Wintemute, 'Caribbean Criminalization', *Lesbian/Gay Law Notes*, June 2001, available at www.qrd.org/qrd/www/legal/lgl/06.01.html).

²⁵⁰ Sex between two men over 18 in private has been decriminalised by the Caribbean Territories (Criminal Law) Order 2000 of the Privy Council (in London, UK), that entered into force on 1 January 2001 (see Robert Wintemute, 'Caribbean Criminalization', *Lesbian/Gay Law Notes*, June 2001, available at www.qrd.org/qrd/www/legal/lgl/06.01.html).

²⁵¹ Sex between two men over 18 in private has been decriminalised by the Caribbean Territories (Criminal Law) Order 2000 of the Privy Council (in London, UK), that entered into force on 1 January 2001 (see Robert Wintemute, 'Caribbean Criminalization', *Lesbian/Gay Law Notes*, June 2001, available at www.qrd.org/qrd/www/legal/lgl/06.01.html).

²⁵² Sex between two men over 18 in private has been decriminalised by the Caribbean Territories (Criminal Law) Order 2000 of the Privy Council (in London, UK), that entered into force on 1 January 2001 (see Robert Wintemute, 'Caribbean Criminalization', *Lesbian/Gay Law Notes*, June 2001, available at www.qrd.org/qrd/www/legal/lgl/06.01.html).

²⁵³ Decriminalisation has already taken place ###, according to Wikipedia ('LGBT rights in the Americas', accessed 9 November 2008).

²⁵⁴ According to Wikipedia, UK law applies ('LGBT rights in the Americas', accessed 9 November 2008) ###.

²⁵⁵ According to Wikipedia, UK law applies ('LGBT rights in the Americas', accessed 9 November 2008) ###.

²⁵⁶ According to Wikipedia, UK law applies ('LGBT rights in the Americas', accessed 9 November 2008) ###.

²⁵⁷ Until 1985 these hardly inhabited islands were governed as part of Falkland Islands Dependencies (see Wikipedia, 'South Georgia and the South Sandwich Islands', accessed 9 November 2008) ###.

²⁵⁸ See Ottosson 2008, p. 45.

²⁵⁹ See Graupner 2005, p. 145-146, and Rayside 2008, p. 128, unless stated otherwise. Decriminalisation took place through action of the state's legislature, or through a ruling of the state's supreme court (with the exception of Texas, where it was the United States Supreme Court that effected the decriminalisation, see below).

²⁶⁰ See Graupner 2005, p. 145-146, unless stated otherwise.

²⁶¹ See Wintemute 2001, p. 787, and Ottosson 2008, p. 46, unless stated otherwise.

²⁶² See Wintemute 2001, p. 787, unless stated otherwise.

²⁶³ See Rayside 2008, p. 130-155, and Wintemute 2001, p. 779. Additional information found on Wikipedia ('Same-sex unions in the United States', accessed on 23 October 2008, ###).

²⁶⁴ See Wintemute 2001, p. 779, Rayside 2008, p. 130-155, and Ottosson 2008, p. 47.

²⁶⁵ By state court ruling (see Graupner 2005, p. 145-151).

²⁶⁶ By state court ruling (see Graupner 2005, p. 145-151).

²⁶⁷ Wintemute (2001, p. 787) gives 1989 as the year of the first legislation in Massachusetts against sexual orientation discrimination. Ottosson (2008, p. 46) gives 1990 as the year of entry into force of the first prohibition of sexual orientation discrimination in employment ###.

²⁶⁸ As a result of the ruling of the Supreme Judicial Court of Massachusetts of 18 November 2003 in the case of *Goodrich v. Department of Public Health* (###) same-sex marriages have been possible since 17 May 2004 (see Rayside 2008, p. 142-143).

²⁶⁹ Although Ottosson (2008, p. 47) gives 2004 as the year in which the civil union legislation took effect, it seems that the law was adopted in 2005 (see Rayside 2008, p. 150) and took effect on 1 October 2005 (see Wikipedia, 'Same-sex marriage in Connecticut', accessed 3 November 2008) ###.

²⁷⁰ As a result of the ruling of the Supreme Court of Connecticut of 10 October 2008 in the case *Kerrigan and Mock v. Connecticut Department of Public Health* (###), same-sex marriages will be possible soon ###.

²⁷¹ Wintemute (2001, p. 787) gives 1991 as the year of the first legislation in Hawaii against sexual orientation discrimination. Ottosson (2008, p. 46) gives 1992 as the year of entry into force of the first prohibition of sexual orientation discrimination in employment ###.

²⁷² Since 1979 there has been an executive order of the Governor of California, prohibiting sexual orientation discrimination in the public sector (see Rayside 2008, p. 129).

²⁷³ Ottosson (2008, p. 47) suggests that the 1999 domestic partnership legislation took effect in 2000 ###.

²⁷⁴ As a result of the ruling of the Supreme Court of California of 15 May 2008 in *In re Marriage Cases* (###) same-sex marriages had been possible since 16 June 2008. However, in November 2008 by referendum a new section was added to the Constitution of California, stating that 'only marriage between a man and a woman is valid or recognized in California' ###. This constitutional amendment is currently being challenged in court ###.

²⁷⁵ Wintemute (2001, p. 787) gives 1991 as the year of the first legislation in Vermont against sexual orientation discrimination. Ottosson (2008, p. 46) gives 1992 as the year of entry into force of the first prohibition of sexual orientation discrimination in employment ###.

²⁷⁶ Law formally repealed in 1979 (see Graupner 2005, p. 150).

²⁷⁷ Law formally repealed in 1979 (see Graupner 2005, p. 150).

²⁷⁸ Domestic partnership legislation (creating a domestic partnership registry) took effect in 2004 (see Rayside 2008, p. 150). In 2007 the Civil Union Act took effect (see Wikipedia, 'Recognition of same-sex unions in New Jersey', accessed 3 November 2008) ###.

²⁷⁹ See Rayside 2008, p. 151.

²⁸⁰ *Idem*.

²⁸¹ Wintemute (2001, p. 787) gives 1997 as the year of the first legislation in New Hampshire against sexual orientation discrimination. Ottosson (2008, p. 46) gives 1998 as the year of entry into force of the first prohibition of sexual orientation discrimination in employment ###.

²⁸² By state court ruling (see Graupner 2005, p. 145-151).

²⁸³ By state court ruling (see Graupner 2005, p. 145-151).

²⁸⁴ Law formally repealed in 1978 (see Graupner 2005, p. 150).

²⁸⁵ Law formally repealed in 1978 (see Graupner 2005, p. 150).

²⁸⁶ By state court ruling (see Graupner 2005, who mentions 1996 on p. 146, and 1997 in the corresponding note on p. 150 ###).

²⁸⁷ By state court ruling (see Graupner 2005, who mentions 1996 on p. 146, and 1997 in the corresponding note on p. 150 ###).

²⁸⁸ See Graupner 2005, p. 145-146, and Rayside 2008, p. 128, unless stated otherwise. [g = see note on p. 150 ###]

²⁸⁹ See Graupner 2005, p. 145-146, unless stated otherwise.

²⁹⁰ See Wintemute 2001, p. 787, and Ottosson 2008, p. 46, unless stated otherwise.

²⁹¹ See Wintemute 2001, p. 787, unless stated otherwise.

²⁹² For certain heterosexual acts the minimum age is higher than for homosexual acts (see Graupner 2005, p. 146).

²⁹³ Law formally repealed in 1995 (see Graupner 2005, p. 150).

²⁹⁴ Law formally repealed in 1995 (see Graupner 2005, p. 150).

²⁹⁵ Since 1975 there has been an executive order of the Governor of Pennsylvania, prohibiting sexual orientation discrimination in the public sector (see Rayside 2008, p. 129).

²⁹⁶ Graupner (2005, p. 146) gives 1974 as the year for decriminalisation in Ohio, and Rayside (2008, p. 128) gives 1972. Neither provides any further info ###

²⁹⁷ Graupner (2005, p. 146) gives 1974 as the year for decriminalisation in Ohio, and Rayside (2008, p. 128) gives 1972. Neither provides any further info ###

²⁹⁸ From 1983 to 1999 there was an executive order of the Governor of Ohio, prohibiting sexual orientation discrimination in the public sector (see Rayside 2008, p. 129).

²⁹⁹ By state court ruling (see Graupner 2005, p. 145-151).

³⁰⁰ By state court ruling (see Graupner 2005, p. 145-151).

³⁰¹ By state court ruling (see Graupner 2005, p. 145-151).

³⁰² By state court ruling (see Graupner 2005, p. 145-151).

³⁰³ By state court ruling (see Graupner 2005, p. 145-151).

³⁰⁴ By state court ruling (see Graupner 2005, p. 145-151).

³⁰⁵ By state court ruling (see Graupner 2005, p. 145-151).

³⁰⁶ By state court ruling (see Graupner 2005, p. 145-151).

³⁰⁷ By state court ruling (see Graupner 2005, p. 145-151).

³⁰⁸ By state court ruling (see Graupner 2005, p. 145-151).

³⁰⁹ US Supreme Court, *Lawrence and Garner v Texas* (June 2003) ###

³¹⁰ US Supreme Court, *Lawrence and Garner v Texas* (June 2003) ###

³¹¹ See Graupner 2005, p. 145-146, and Rayside 2008, p. 128, unless stated otherwise. Please note that the ruling of the US Supreme Court in the case of *Lawrence and Garner v Texas* of June 2003 ~~###~~ makes it constitutionally impossible to enforce most remaining laws against homosexual acts.

³¹² See Graupner 2005, p. 145-146, unless stated otherwise.

³¹³ See Wintemute 2001, p. 787, and Ottosson 2008, p. 46.

³¹⁴ See Wintemute 2001, p. 787.

³¹⁵ Different minimum ages for sodomy apply, see *Lesbian/Gay Law Notes* 2007, p. 118.

³¹⁶ See Wintemute 2001, p. 783-784, unless otherwise stated.

³¹⁷ *Idem*.

³¹⁸ See Rayside 2008, p. 97-98, unless otherwise stated.

³¹⁹ See Rayside 2008, p. 179, unless otherwise stated.

³²⁰ For background and a chronology of events, see also Rayside 2008, p. 107-115.

³²¹ Homosexuality was decriminalised in Canada in 1969 by the Criminal Law Amendment Act, 1968-69, S.C. 1968-69, c. 38. See also Graupner 2005, p. 145.

³²² According to Graupner (2005, p. 145 and 148) the age limits are still different in Canada. Article 159 of the Criminal Code provides a minimum age of 18 for 'anal intercourse' with a man or a woman, while articles 150 and 151 set the minimum age for other forms of sexual contact at 14, unless there is according to article 153: 'a relationship with a young person that is exploitative of the young person' (under 18). See the consolidated text of the code at www.canlii.org/ca/sta/c-46. However, in the case of *R. v. C.M.* (1995), 23 O.R. (3d) 629 (Ont. C.A.) (text of the judgment available at www.grd.org/grd/world/legal/youth.sodomy.law.ruling.txt), the highest court in Ontario, the Court of Appeal for Ontario, struck down the differential limit as unconstitutionally discriminatory. So the differential age is ineffective in Ontario. It remains, technically, in effect in all other jurisdictions within Canada, though anyone charged under it would cite *R. v. C.M.* in defence.

³²³ Since 20 June 1996 sexual orientation is included in the list of prohibited grounds of discrimination in section 3 of the Canadian Human Rights Act, R.S.C. 1985, c. H-6 (www.canlii.org/ca/sta/h-6/part312201.html) as amended by the 'Act to amend the Canadian Human Rights Act', S.C. 1996, c. 14 (www.canlii.org/ca/as/1996/c14/).

³²⁴ *Idem*.

³²⁵ Even before same-sex cohabitation was recognised in Canada in federal legislation (*Modernization of Benefits and Obligations Act*, S.C. 2000, c. 12), enacted in response to the judgment of the Supreme Court of Canada of 20 May 1999 in *M. v. H.*, [1999] 2 S.C.R. 3 (www.canlii.org/en/ca/scc/doc/1999/1999canlii686/1999canlii686.html), the Federal Court of Appeal had already in 1990 recognised a same-sex partner for the purpose of conjugal visits in prison (see Rayside 2008, pl. 97, referring to the case of *Veysey v. Canada (Correctional Services)* (1990), 109 N.R. 300

(Fed. C.A.). According to Rayside (2008, p. 98) same-sex partners of employees of the federal government have been first recognised, for the purpose of employment related benefits, in 1997.

³²⁶ The introduction of civil union or registered partnership falls under provincial jurisdiction.

³²⁷ In Canada adoption is a matter of provincial jurisdiction.

³²⁸ The Civil Marriage Act, 2005, c. 33 (www.canlii.org/ca/sta/c-31.5/part293802.html) entered into force on 20 July 2005, making same-sex marriage possible throughout Canada. This federal law was of particular relevance in those provinces and territories where until then such marriages had not been made possible by provincial court ruling (see below).

³²⁹ In Ontario same-sex partners were first recognised in 1991 with respect to benefits for partners of public employees (see Rayside 2008, p. 97). The first judicial recognition came in the case of *Leshner v. Ontario* (No. 2) (1992), 16 C.H.R.R. D/184 (Ont. Bd.Inq.) (summary available at www.hrcr.org/safrica/equality/leshner_ontario.html), also in relation to benefits for partners of public employees.

³³⁰ In Ontario second-parent adoption by a same-sex partner has been possible since the ruling of the Ontario Supreme Court (a court of first instance) of 24 May 1995 in *Re K* (1995), 23 O.R. (3d) 679 (Prov.Ct.) (www.canlii.org/en/on/onsc/doc/1995/1995canlii7396/1995canlii7396.html).

³³¹ In Ontario same-sex marriage has been possible since 10 June 2003, because of the ruling of the Court of Appeal for Ontario of 10 June 2003 in *Halpern v. Canada (Attorney General)* (2003) 65 O.R. (3d) 161 (www.canlii.org/en/on/onca/doc/2003/2003canlii26403/2003canlii26403.html).

³³² In British Columbia same-sex partners were first recognised in the ruling of the Supreme Court of British Columbia (a court of first instance) of 30 August 1991 in the case of *Knodel v. British Columbia (Medical Services Commission)*, [1991] 6 W.W.R. 728 (B.C.S.C.) (www.canlii.org/en/bc/bcsc/doc/1991/1991canlii3960/1991canlii3960.html), which was about provincial health benefits (see Rayside 2008, p. 97).

³³³ In British Columbia same-sex marriage has been possible since 8 July 2003, because of the supplemental reasons provided on that day by the Court of Appeal for British Columbia in *EGALE Canada Inc. v. Canada (Attorney General)* (2003), 228 D.L.R. (4th) 416, 2003 BCCA 406 (published at www.canlii.org/en/bc/bcca/doc/2003/2003bcca406/2003bcca406.html as *Barbeau v. British Columbia*), which, in light of the remedy given by the Court of Appeal for Ontario in *Halpern* (see above), lifted the suspended effect of the remedy granted on 1 May 2003 in *EGALE Canada Inc. v. Canada (Attorney General)* (2003), 225 D.L.R. (4th) 472, 2003 BCCA 251 (published at www.canlii.org/en/bc/bcca/doc/2003/2003bcca251/2003bcca251.html, as *Barbeau v. British Columbia (Attorney General)* and made it effective immediately.

³³⁴ In Nova Scotia registered domestic partnership was introduced with the entry into force on ### 4 June 2001 of the Law Reform (2000) Act, S.N.S. 2000, c. 29 (as bill available at www.gov.ns.ca/legislature/legc/bills/58th_1st/1st_read/b075.htm; for the probable date of entry into force, see www.canlii.org/ns/laws/regu/2001r.57/20080818/whole.html). It defines domestic partnership as ‘a relationship between two persons who have filed a domestic-partner declaration in accordance with Part II’ (of the Vital Statistics Act; see sections 52 to 59 of the consolidated text of that act at www.canlii.org/ns/laws/sta/r1989c.494/20080115/whole.html, one of the many acts that the Law Reform (2000) Act did amend).

³³⁵ In Nova Scotia same-sex marriage has been possible since 24 September 2004, because of the ruling Nova Scotia Supreme Court (a court of first instance) in *Boutillier v. Nova Scotia (Attorney General)*, [2004] N.S.J. No. 357 (QL) (N.S.S.C.).

³³⁶ In Quebec the 'Act instituting civil unions and establishing new rules of filiation' (S.Q. 2002, c. 6, <http://www2.publicationsduquebec.gouv.qc.ca/home.php>), changing the Civil Code of Quebec and 54 statutes, came into force on 24 June 2002. Quebec's civil union is not just a registration scheme, but primarily a marriage substitute. The Civil Code (consolidated text available at www.canlii.org/qc/laws/sta/ccq/index.html) refers to a civil union's solemnization. The civil union is available to same-sex or opposite-sex conjugal partners. Its rules incorporate the legal regime of marriage, including the obligatory rules of the family patrimony. Unlike marriage, which requires a divorce judgment, a civil union can be consensually dissolved by a notarised joint declaration by the spouses.

³³⁷ In Quebec adoption by same-sex partners is possible since at least 2002 (as a result of section 34 of the 'Act instituting civil unions and establishing new rules of filiation,' S.Q. 2002, c. 6, which added article 578.1 to the Civil Code, see previous note). Arguably it was already allowed since 1991, because article 555 of the Civil Code (S.Q. 1991, c. 64) provided for special consent in favour of adoption by the *de facto* spouse of a child's parent, without reference to sex, and because article 546 of the Civil Code already provided that 'any person of full age may, alone or jointly with another person, adopt a child.' ###

³³⁸ In Quebec same-sex marriage has been possible since 19 March 2004, because of the ruling of the Superior Court (a court of first instance) of 6 September 2002 in *Hendricks v. Québec (Procureur général)*, [2002] R.J.Q. 2506 (Sup. Ct.) (www.canlii.org/fr/qc/qccs/doc/2002/2002canlii23808/2002canlii23808.html). That ruling accepted the constitutional claim favouring same-sex marriage but suspended the coming into effect of the remedy for two years to allow the government time to respond. However, the remedy was later declared effective immediately in the ruling of 19 March 2004 in the case *Catholic Civil Rights League v. Hendricks*, [2004] R.J.Q. 851, 238 D.L.R. (4th) 577 (Qc. C.A.) (www.canlii.org/en/qc/qcca/doc/2004/2004canlii20538/2004canlii20538.html).

³³⁹ In Manitoba (according to Rayside 2008, p. 98) same-sex partners of public employees have been first recognised, for the purpose of employment related benefits, in 1991. More extensive recognition of informal same-sex cohabitation came with the entry into force on 1 August 2002 (partly) and 1 January 2003 of the Charter Compliance Act (S.M. 2002, c. 24, available at <http://web2.gov.mb.ca/laws/statutes/2002/c02402e.php>), and with the entry in force on 30 June 2004 of the **Common-Law Partners' Property and Related Amendments Act**. S.M. 2002, c. 48 (available at <http://web2.gov.mb.ca/laws/statutes/2002/c04802e.php>, and explained at www.gov.mb.ca/justice/family/commonlaw/index.html, accessed 21 February 2009).

³⁴⁰ In Manitoba partners in a common-law relationships can choose to have their relationship registered (see section 13.1 and 13.2 of the Vital Statistics Act (www.canlii.org/mb/laws/sta/v-60/20080818/whole.html) as amended by section 23 of the **Common-Law Partners' Property and Related Amendments Act**. S.M. 2002, c. 48 (available at <http://web2.gov.mb.ca/laws/statutes/2002/c04802e.php>), that came into force on 30 June 2004. The 2002 act lists the many other acts that now refer to registered common-law relationships (and to non-registered common-law relationships, see the previous note). The system is explained at www.gov.mb.ca/justice/family/commonlaw/index.html (accessed 21 February 2009).

³⁴¹ In Manitoba same-sex marriage has been possible since 16 September 2004, because of the ruling of the Manitoba Court of Queen's Bench (a court of first instance) in *Vogel v. Canada (Attorney General)*, [2004] M.J. No. 418 (QL) (Q.B.).

³⁴² In Saskatchewan same-sex marriage has been possible since 5 November 2004, because of the ruling of Saskatchewan Court of Queen's Bench (a court of first instance) in *N.W. v. Canada (Attorney General)*, [2004] S.J. No. 669 (QL), 2004 SKQB 434 (Sask. Q.B.) (www.canlii.org/en/sk/skqb/doc/2004/2004skqb434/2004skqb434.html).

³⁴³ In Newfoundland & Labrador same-sex marriage has been possible since 21 December 2004, because of the oral judgment of the Newfoundland & Labrador Supreme Court (Trial Division) in *Pottle v. Canada (Attorney General)*, [2004] N.J. No. 470 (Nfld. S.C. (T.D.)); written reasons followed, 9 February 2005.

³⁴⁴ In the Yukon Territory same-sex marriage has been possible since 14 July 2004, because of the ruling of that day of the Yukon Territory Supreme Court (a court of first instance) in *Dunbar v. Yukon*, [2004] Y.J. No. 61 (QL), 2004 YKSC 54 (www.canlii.org/en/yk/yksc/doc/2004/2004yksc54/2004yksc54.html).

³⁴⁵ In Alberta, there is no explicit mention of sexual orientation in the anti-discrimination legislation. However, in *Vriend v. Alberta*, [1998] 1 S.C.R. 493 (www.canlii.org/en/ca/scc/doc/1998/1998canlii816/1998canlii816.html), on 2 April 1998 the Supreme Court of Canada found a constitutional rights violation in the failure of that province to have included sexual orientation amongst the prohibited grounds for discrimination in its *Individual's Rights Protection Act*, R.S.A. 1980, c. I-2 (now the *Human Rights, Citizenship and Multiculturalism Act*, R.S.A. 2000, c. H-14, www.canlii.org/ab/laws/sta/h-14/index.html). In a controversial constitutional remedy, the Court 'read in' sexual orientation into the statute, i.e. essentially adding new words to the enacted text. The legislature, it seems, has never actually finalised or officialised what the Court did, but it is indisputable that the law of Alberta, read in light of the Canadian Charter of Rights and Freedoms, provides human rights protection against from sexual-orientation discrimination.

³⁴⁶ *Idem*. Section 4 of the act the *Human Rights, Citizenship and Multiculturalism Act* includes discrimination in relation to goods and services.

³⁴⁷ In Alberta same-sex cohabitation has been recognised since 1 June 2003, with the entry into force of the *Adult Interdependent Relationships Act*, S.A. 2002, c. A-4.5 (www.canlii.org/ab/laws/sta/a-4.5/20080818/whole.html). This act does not provide for registration of partnership, but in section 7 provides that partners living together or intending to live together in a relationship of interdependence 'may enter into an adult interdependent partner agreement'. Alberta adopted this law after the ruling of the Supreme Court of Canada in *M. v. H.*, [1999] 2 S.C.R. 3 (www.canlii.org/en/ca/scc/doc/1999/1999canlii686/1999canlii686.html). This law does not require the partners to be in a 'conjugal' relationship.

³⁴⁸ In Alberta same-sex marriage has been possible since 20 July 2005 because of federal legislation: Civil Marriage Act, 2005, c. 33, (www.canlii.org/ca/sta/c-31.5/part293802.html).

³⁴⁹ In the Northwest Territories same-sex marriage has been possible since 20 July 2005 because of federal legislation: Civil Marriage Act, 2005, c. 33, (www.canlii.org/ca/sta/c-31.5/part293802.html).

³⁵⁰ In New Brunswick same-sex marriage has been possible since early July 2005 because of the ruling of the New Brunswick Court of Queen's Bench (a court of first instance) of 23 June 2005 in *Harrison v. Canada (Attorney General)* (2005), 290 N.B.R. (2d) 70, 2005 NBQB 232 (N.B. Q.B.) (www.canlii.org/en/nb/nbqb/doc/2005/2005nbqb232/2005nbqb232.html).

³⁵¹ In Prince Edward Island same-sex marriage has been possible since 20 July 2005 because of federal legislation: Civil Marriage Act, 2005, c. 33, (www.canlii.org/ca/sta/c-31.5/part293802.html).

³⁵² In Nunavut same-sex marriage has been possible since 20 July 2005 because of federal legislation: Civil Marriage Act, 2005, c. 33, (www.canlii.org/ca/sta/c-31.5/part293802.html).

³⁵³ For Cyprus, Turkey, Armenia, Azerbaijan, Georgia and Russia (all members of the Council of Europe), see table 19.

³⁵⁴ See Ottosson 2008, unless stated otherwise.

³⁵⁵ Israel's Equal Employment Opportunities Law of 1988 was amended in 1992 to include sexual orientation in the list of forbidden grounds of discrimination in its article 2 (see Wintemute 2001, p. 785, and an English translation of the consolidated text of this Law at www.ilo.org/dyn/natlex/docs/WEBTEXT/36155/64909/E88ISR01.htm).

³⁵⁶ In the case of *El-Al Israel Airlines v. Danilowitz* the Supreme Court of Israel in 1994 held that under the Equal Employment Opportunities Law (see above) a same-sex partner must be given the same work-related benefits as are granted to a unmarried different-sex partner of an employee (see Aeyal M. Gross, 'Challenges to Compulsory Heterosexuality: Recognition and Non-Recognition of Same-Sex Couples in Israeli Law', in Wintemute & Andenaes 2001, p.391-414). A translation of the case can be found at www.tau.ac.il/law/aeyalgross/legal_materials.htm. On the position of unmarried partners, also see Talia Einhorn, 'Same-sex family unions in Israeli law', 4 *Utrecht Law Review* 2008, 222-235 (full text available at www.utrechtlawreview.org/publish/issues/2008-02/index.html).

³⁵⁷ In Israel second-parent adoption by a same-sex partner has been allowed by the Supreme Court in January 2005 (see Talia Einhorn, 'Same-sex family unions in Israeli law', 4 *Utrecht Law Review* 2008, p. 230, full text available at www.utrechtlawreview.org/publish/issues/2008-02/index.html). It has also been reported that in February 2008 the Attorney General gave directed the Ministry of Welfare to accept and process applications for joint adoption by same-sex couples (see Einhorn, p. 230-231).

³⁵⁸ Following a court ruling from 2006 or 2007 ### a foreign same-sex marriage can be registered as such in Israel ###.

³⁵⁹ According to Ottosson (2008, p. 15) in the West Bank (part of the Palestinian Authority) the Jordanian Penal Code of 1951 is in force. That Code does not prohibit sex between persons of the same sex.

³⁶⁰ According to Ottosson (2008, p. 15) in Gaza (part of the Palestinian Authority) the British Mandate Criminal Code Ordinance, No. 74 of 1936 is in force. Section 152(2) of that Code makes sex between men a crime.

³⁶¹ According to Ottosson (2008, p. 19) Iraq after the American invasion in 2003 reinstated the Penal Code of 1969, which does not prohibit sex between consenting adults of the same sex. However, according to Wikipedia, the situation is less clear ('LGBT rights in Iraq', accessed 4 February 2009) ###.

³⁶² For Cyprus, Turkey, Armenia, Azerbaijan, Georgia and Russia (all members of the Council of Europe), see table 19.

³⁶³ See Ottosson 2008, unless stated otherwise.

³⁶⁴ Since the entry into force of the new Kyrgyzstan Penal Code (according to Ottosson 2008, p. 45, this happened in 1998; according to the BBC on 1 January 1998, see) homosexual acts between consenting adult men are no longer a crime. Sexual acts with someone over 18 with someone of the same-sex under 16 is a crime under article 132 of the new Penal Code (see Dennis van der Veur, *Kyrgyzstan: "the country of human rights" ... but not for homosexuals!*, Amsterdam: COC Netherlands/Hivos 2004, p. 18 (full text available at www.publiek.coc.nl/Kyrgyzstan.pdf).

³⁶⁵ According to Interpol there is a general age of consent of 16 in Kyrgyzstan (see www.interpol.int/Public/Children/SexualAbuse/NationalLaws/CsaKyrgyzstan.pdf, accessed 16 February 2009). See also the previous note.

³⁶⁶ According to Wikipedia ('LGBT rights in Kazakhstan', accessed 4 February 2009) an equal age of consent of 18 applies in Kazakhstan ###.

³⁶⁷ In Nepal any 'unnatural sex act' is a crime (see Ottosson 2008, p. 27). However, the legislation on this point may be reviewed after the ruling of the Supreme Court of Nepal of 21 December 2007 (see www.bds.org.np/decision.html) ###.

³⁶⁸ Idem ###.

³⁶⁹ On 21 December 2007 the Supreme Court of Nepal, among other things, ordered the government to set up a Committee to study the issue of same-sex marriage (see www.bds.org.np/decesion.html), and to make legal arrangements in line with the future recommendations of that Committee.

³⁷⁰ In India since 1860 the Penal Code makes it a crime to voluntarily have 'carnal intercourse against the order of nature with any man, woman or animal'. Over the years this provision has been given a wide interpretation (see Gupta 2008, p. 18 and 36-40). Currently the prohibition is being challenged in the courts of India ###.

³⁷¹ In Sri Lanka the Penal Code makes it a crime to voluntarily have 'carnal intercourse against the order of nature with any man, woman or animal' (section 365 of the Penal Code). It also criminalises 'any act of gross indecency' (by any person with another person). The gender neutral wording of article 365A was introduced by the Penal Code (Amendment) Act (No. 22 of 1995, www.commonlii.org/lk/legis/num_act/pca22o1995213/s18.html; see Gupta 2008, p. 51). The pre-1995 text of both articles can be found at www.commonlii.org/lk/legis/consol_act/pc25130.pdf; the text of article 365 quoted by Ottosson (2008, p. 36) may not be completely correct ###.

³⁷² See Ottosson 2008, unless stated otherwise.

³⁷³ According to Graupner (2005, p. 145) there is an equal age limit of 16 years in Taiwan. This is confirmed at www.avert.org/aofconsent.htm (accessed 3 February 2009), although Wikipedia ('Sodomy law', accessed 16 February 2009) suggests it is 18 ###.

³⁷⁴ In Taiwan sexual orientation discrimination in employment has been forbidden by amendment of the Gender Equality in Employment Act in 2008 (see <http://law.moj.gov.tw/Eng/Fnews/FnewsContent.asp?msgid=4203&msgType=en&keyword=gender+equality>).

³⁷⁵ In Taiwan sexual orientation discrimination in education has been forbidden by the Gender Equity Education Act which entered into force on 23 June 2004 (<http://law.moj.gov.tw/Eng/Fnews/FnewsContent.asp?msgid=2178&msgType=&keyword=undefined>). See also the Enforcement Rules for the Gender Equity Education Act at <http://law.moj.gov.tw/Eng/Fnews/FnewsContent.asp?msgid=1911&msgType=&keyword=undefined>).

³⁷⁶ According to Wikipedia ('LGBT rights by country or territory', accessed 4 February 2009) homosexual acts in the Philippines have been legal since 1987, which would have 'formalised' in 2004 ###.

³⁷⁷ According to Graupner (2005, p. 145) there is an equal age limit of 12 years in the Philippines.

³⁷⁸ In 2004 an anti-discrimination bill covering both employment and goods and services (House Bill 6416) was approved in the lower house of the Philippines parliament, but did not make it into law (see www.iglhrc.org/cgi-bin/iowa/article/takeaction/resourcecenter/502.html, accessed 4 February 2009). After the failure of that bill, several other anti-discrimination bills have been introduced (see Wikipedia, 'LGBT rights in the Philippines', accessed 4 February 2009), including House Bill 956 (www.akbayan.org/index.php?option=com_content&view=article&id=207:anti-discrimination-bill-hb-956&catid=15:bills&Itemid=100) ###.

³⁷⁹ Idem.

³⁸⁰ In Thailand 'carnal knowledge of man or woman against the order of nature' was a criminal offence between 1908 and 1957 (see Graupner 2005, p. 145 and 149).

³⁸¹ According to Graupner there is an equal age limit of 18 years in Thailand, but he adds that this limit ‘applies to (extra-marital) sexual contacts “in the place of prostitution” only’ (2005, p. 145 and 148).

³⁸² According to Graupner (2005, p. 146), decriminalisation of homosexuality in China took already place in ‘1912/30’ ###. However, according to Wikipedia (‘Homosexuality in China’ and ‘Sodomy law’, both accessed 4 February 2009) homosexual acts have been decriminalised in 1992 or 1997 ###.

³⁸³ In the Special Administrative Region of Macau there is a general age limit of 14 (article 166 of the Penal Code). The maximum penalty is higher, if the sexual act committed consists of ‘coito anal’. A higher age limit of 16 applies in cases where abuse is being made of the inexperience of the child (article 168 and 169), or where the child has been confided to the older person’s education or care (article 167). The text of the Penal Code can be found at <http://bo.io.gov.mo/bo/i/95/46/codpenpt/codpen0101.asp>.

³⁸⁴ In Hong Kong homosexual acts have been decriminalised in 1991 (see Arthur S. Leonard, ‘Hong Kong Appeals Court Voids Age Differential for Gay Sex’, Lesbian/Gay Law Notes, October 2006, www.nyls.edu/user_files/1/3/4/30/59/65/66/ln0610.pdf) or perhaps already in 1990 (see Gupta 2008, p. 9) ###.

³⁸⁵ On 20 October 2006 the Hong Kong Court of Appeal has declared the difference between the age limit for sex between men (21) and that for heterosexual sex (14) to be unconstitutional (see Gupta 2008, p. 9, and the case note by Arthur S. Leonard at http://newyorklawschool.typepad.com/leonardlink/2006/09/hong_kong_appea.html). However, according to Wikipedia (‘Homosexuality in China’, accessed 4 February 2009) the higher age of consent for homosexual sex has still been applied in 2007 ###.

³⁸⁶ According to Wikipedia (‘LGBT rights by country or territory’, accessed 4 February 2009) homosexual acts have been decriminalised in Mongolia in 2002 ###.

³⁸⁷ According to Graupner (2005, p. 146) there is an equal age limit of 16 years in Vietnam.

³⁸⁸ According to Graupner (2005, p. 145) there is an equal age limit of 13 years in South Korea.

³⁸⁹ In Japan homosexual acts were a criminal offence only between 1873 and the entry into force of the Penal Code of 1880 (see Graupner 2005, p. 145 and 148). Several sources confirm that this Code entered into force in 1882 (see Ottosson 2008, p. 45).

³⁹⁰ According to Graupner (2005, p. 145) there is an equal age limit of 13 years in Japan. However, according to Wikipedia most prefectures have criminalised ‘immoral sexual acts’ with children or minors, and some prefectures have set a higher age limit for sexual acts between people of the same sex (‘Ages of consent in Asia’, accessed 4 February 2009) ###.

³⁹¹ According to Ottosson the national Penal Code does not criminalise homosexual acts. However, he adds that the province of Aceh has been given the right to adopt Islamic Sharia laws, and that at least one city in South Sumatra has criminalised homosexual acts ###.

³⁹² Ottosson (2008, p. 17) suggests, but does not explicitly say, that article 292 of the national Penal Code sets a higher age limit for sex between people of the same sex ###.

³⁹³ Since amending legislation of 2007 (no. 51) Section 377 of the Penal Code of Singapore no longer criminalises ‘carnal intercourse against the order of nature with any man, woman or animals’. However, Section 377A (‘gross indecency with another male’) was not abolished. See the current text of the Penal Code at http://statutes.agc.gov.sg/non_version/html/homepage.html.

³⁹⁴ In Malaysia the Penal Code criminalises 'carnal intercourse against the order of nature' ('by introduction of the penis into the anus or mouth', section 377A) and 'gross indecency' (by 'any person' with another person, section 377D). Ottosson (2008, p. 23) concludes that sex between women is legal ###. However, the text of section 377D on 'gross indecency' is gender neutral. According to Gupta (2008, p. 50) this is so since 1989. The Penal Code (Amendment) Act 1989, which entered into force on 5 May 1989, did many sections, including 377D (see the List of Amendments at the bottom of the text of the Penal Code at www.unhcr.org/refworld/country,LEGAL,NATLEGBOD,,MYS,,0.html).

³⁹⁵ See Graupner 1997, unless stated otherwise.

³⁹⁶ See Graupner 2005, p. 124, unless stated otherwise.

³⁹⁷ See Waaldijk & Bonini-Baraldi 2006, p. 91-94, and Waaldijk & Bonini-Baraldi 2004, p. 552-554, unless stated otherwise. See also the full references in Wintemute 2001, p. 781-788.

³⁹⁸ See Waaldijk & Bonini-Baraldi 2006, p. 80-82, unless stated otherwise. See also the full references in Wintemute 2001, p. 781-788.

³⁹⁹ See Waaldijk 2005, unless stated otherwise. See also the full references in Wintemute 2001, p. 775-779.

⁴⁰⁰ See Waaldijk 2005, unless stated otherwise. See also the full references in Wintemute 2001, p. 775-779.

⁴⁰¹ See Waaldijk 2005, unless stated otherwise.

⁴⁰² In the prohibition of discrimination in Article 1 of the Dutch Constitution, which entered into force in 1983, the words 'on any ground whatsoever' were added with the explicit intention of covering discrimination based on homosexual orientation (see K. Waaldijk, 'Constitutional Protection Against Discrimination of Homosexuals', 13 *Journal of Homosexuality* 57 (1986/1987), p. 59-60, available at <http://hdl.handle.net/1887/3607>). In 1992, 'hetero- or homosexual orientation' was inserted in several anti-discrimination provisions of the Penal Code. In 1994, the General Equal Treatment Act came into force, covering several grounds including 'hetero or homosexual orientation'.

⁴⁰³ *Idem*.

⁴⁰⁴ Unregistered cohabitation (both for same-sex and opposite sex couples) was first recognised in Dutch legislation in a law of 21 June 1979 with respect to rent law (amending what then was article 1623h and now is article 267 of book 7 of the Civil Code), followed by a law of 17 December 1980 on inheritance tax due by the surviving partner from a 'joint household'. Since then, many more laws have been amended so as to recognise cohabitation for a multitude of purposes, including social security, tax, citizenship and parental authority). Same-sex cohabitants had already been recognised in the Immigration guidelines since 1975 (see Waaldijk 2005, p. 144-147).

⁴⁰⁵ The Dutch law on the opening up of marriage of 21 December 2000, entered into force on 1 April 2001 (see Waaldijk 2005, p. 138).

⁴⁰⁶ The Belgian law allowing joint and second-parent adoption by same-sex partner(s) of 18 May 2006 entered into force on 30 June 2006.

⁴⁰⁷ The Belgian law opening up marriage to persons of the same sex of 13 February 2003 entered into force on 1 June 2003.

⁴⁰⁸ According to Graupner (1997, p. 657) the general prohibition of homosexual acts was abolished in Spain when the Penal Code of 1822 was adopted. However, Ottosson (2008, p. 45, without reference to a source) gives 1979 as the year of decriminalisation. Ottosson's reason for mentioning that year may be that in 1979 a law labelling homosexuals as 'social dangers' was repealed (see Nicolás Pérez Cánovas, 'Spain: The Heterosexual State Refuses to Disappear', in Wintemute & Andenaes 2001, p. 494; see also Wikipedia, 'LGBT Rights in Spain', accessed 1 November 2008).

⁴⁰⁹ Although the formal age limits for heterosexual and homosexual acts were equalised at the time of decriminalisation of homosexual acts in 1822, in practice, homosexual acts with minors continued to be penalised until 1988 under a general provision against 'serious scandal and indecency' (Graupner 1997, p. 665-666).

⁴¹⁰ Law on Urban Housing of 24 November 1994.

⁴¹¹ Partnership legislation has been enacted in most autonomous regions: Catalonia (1998), Aragon (1999), Navarra (2000), Valencia (2001), Balearic Islands (2002), Asturia (2002), and Madrid (2002), Andalucia (2002), Canary Islands (2003), Extremadura (2003) and the Basque Country (2003). See Rubio-Maríñ, 'Spain', in Waaldijk & Bonini-Baraldi 2004, para. 15.3.3. Not all of these legislative schemes involve a form of registered partnership: some only provide for the recognition of cohabitation.

⁴¹² In Navarra (2000), the Basque Country (2003), Aragon (2004) and Catalonia (2005) adoption had already been permitted before the opening up of marriage in July 2005. The provisions on joint adoption by unmarried opposite-sex and same-sex couples in Navarra had been suspended pending a challenge to the constitutional power of Navarra to enact them. See Nicolás Pérez Cánovas, 'Spain: The Heterosexual State Refuses to Disappear', in Wintemute & Andenaes 2001, p. 503, and Waaldijk & Bonini-Baraldi 2006, p. 84.

⁴¹³ Law 13/2005 of 2 July 2005, see 2 *European Anti-Discrimination Law Review* (2005) 73 (available at http://ec.europa.eu/employment_social/fundamental_rights/policy/aneval/legnet_en.htm#lawrev).

⁴¹⁴ According to Rydström, decriminalisation took place in 1933, for Denmark as well as for the Faroe Islands. See J. Rydström, 'Greenland and the Faroe Islands 1866-1988: Nordic Peripheries', in Rydström & Mustola 2007, p. 150. However, Graupner (1997, p. 390) gives 1930 as the year for decriminalisation.

⁴¹⁵ Surviving same-sex partner had to pay the same inheritance tax as surviving married spouse (Law of 4 June 1986, No 339, repealed by Law on Registered Partnership of 7 June 1989, No 372).

⁴¹⁶ Already in the 1970s a non-married (same-sex) partner could be given a residence permit (see Hans Ytterberg & Kees Waaldijk, 'Sweden', in Waaldijk 2005, p. 178).

⁴¹⁷ See Wikipedia ('Same-sex marriage in Sweden', accessed 3 November 2008) ###.

⁴¹⁸ In the former German Democratic Republic (East Germany), homosexual acts between men were decriminalised in 1968 and in the pre-unification Federal Republic of Germany (West Germany) in 1969., the dates were 1969 and 1994. See Graupner 1997, p. 407-410.

⁴¹⁹ In the former German Democratic Republic the age limits were equalised in 1989, and in the Federal Republic of Germany in 1994. See Graupner 1997, p. 407-410.

⁴²⁰ Anti-discrimination provisions specifically referring to sexual orientation have been included in the constitution of three Länder (states): Brandenburg (1992), Thuringia (1993) and Berlin (1995). Anti-discrimination legislation has been enacted in one Land Saxony-Anhalt (in force in 1998). National anti-discrimination legislation came into force in 2006.

⁴²¹ *Idem*.

⁴²² See Waaldijk & Bonini-Baraldi 2006, p. 83-84 ###.

⁴²³ Decriminalisation of most sex between two men over 21 took place in England and Wales in 1967, in Scotland in 1980 and in Northern Ireland in 1982 (see Graupner 1997, p. 711, 727 and 739).

⁴²⁴ Legislation equalising the age of consent (at 16 in England & Wales and Scotland; at 17 in Northern Ireland) entered into force January 2001. The Sexual Offences (Northern Ireland) Order 2008 lowering the latter age limit to 16 is expected to enter into force soon. See www.stonewall.org.uk/information_bank/criminal_law/66.asp (accessed 30 September 2008).

⁴²⁵ The Employment Equality (Sexual Orientation) Regulations 2003 came into force on 1 December 2003, and the Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003 one day later.

⁴²⁶ The Equality Act (Sexual Orientation) Regulations 2007 (in force since 30 April 2007) and the Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006 (in force since 1 January 2007), prohibit discrimination on grounds of sexual orientation in the provision of goods, facilities, services, education, management and disposal of premises and the exercise of public functions. See David Harris et al. 'United Kingdom', in *Homophobia and Discrimination 2008*, p. 8-9.

⁴²⁷ In 1997 the government introduced a 'concession outside the Immigration Rules' allowing unmarried long term cohabiting partners who could not marry each other (for example because they are of the same sex) to apply for leave to enter/remain in the United Kingdom; in 2000, this concession was incorporated into the Immigration Rules (paras 295A-295O). The first piece of parliamentary legislation recognising same-sex partners was enacted in 2000 by the Scottish Parliament: Adults with Incapacity (Scotland) Act 2000 (section 87(2)). From 1999, some older legislation has been interpreted so as to also cover same-sex cohabitants. See the judgments of the House of Lords of 28 October 1999, *Fitzpatrick v Sterling Housing Association* [1999] 4 All England Law Report 707, and of 21 June 2004, *Ghaidan v. Godin-Mendoza* [2004] 3 All England Law Reports 411.

⁴²⁸ The Civil Partnership Act 2004 entered into force on 5 December 2005 (see Mark Harper et al., *Civil Partnership – The New Law*, Bristol: Family Law 2005, p. vii). It applies to England & Wales, to Scotland, and to Northern Ireland (see the text of the Act at www.opsi.gov.uk/acts/acts2004/ukpga_20040033_en_1).

⁴²⁹ For England and Wales, the Adoption and Children Act 2002 came into effect on 30 December 2005. For Scotland, the Adoption and Children (Scotland) Act 2007 was passed by the Scottish Parliament in December 2006, and partly ### entered into force in 2008. Legislation in Northern Ireland is in preparation ###.

⁴³⁰ With the intention of covering sexual orientation discrimination, the word 'moeurs' (morals, manners, customs, ways) was inserted in several anti-discrimination provisions of the Penal Code 1985 and of the Labour Code 1986. 'Sexual orientation' was added to both in 2001 (Loi no 2001-1066 du 16 novembre 2001 relative a la lutte contre les discriminations).

⁴³¹ With the intention of covering sexual orientation discrimination, the word 'moeurs' (morals, manners, customs, ways) was inserted in several anti-discrimination provisions of the Penal Code 1985. 'Sexual orientation' was added in 2001 (Loi no 2001-1066 du 16 novembre 2001 relative a la lutte contre les discriminations).

⁴³² Law of 9 July 2004 ('relating to the legal effects of certain partnerships'), published in *Mémorial A*, nr. 143, 6 August 2004, entry into force on 1 November 2004.

⁴³³ According to ILGA-Europe, registered partners in Luxembourg have access to joint adoption (see www.ilga-europe.org/europe/issues/marriage_and_partnership/marriage_and_partnership_rights_for_same_sex_partners_country_by_country, accessed 30 September 2008). This, however, does not seem to be confirmed by the text of the partnership law itself: www.gouvernement.lu/dossiers/justice/partenariat/loi_partenariat.pdf (accessed 30 September 2008).

⁴³⁴ The age limit for any sexual act between men is higher (17) than for an oral or non-penetrative sexual act between a man and a woman (15), vaginal intercourse of a woman with a boy (15), or any sexual act between women (15). However, the age limit for vaginal intercourse of a man with a girl, and for anal sex between a man and a woman, is also set at 17. See Graupner 1997, p. 481 and 487. It is unclear if new legislation adopted in 2006 ### has had an impact on these different age limits.

⁴³⁵ Discriminatory dismissal became unlawful in 1993, other employment discrimination in 1998. Before that, in 1989, sexual orientation had already been included in the prohibition of incitement to hatred.

⁴³⁶ Domestic Violence Act 1995 and Powers of Attorney Act 1995 (see L. Flynn, 'From Individual Protection to Recognition of Relationships, Same Sex Couples and the Irish Experience of Sexual Orientation Law Reform', in Wintemute & Andenaes 2001, p. 596).

⁴³⁷ According to Nowak the neutral clauses 207a and 208 of the Criminal Code are still only applied to gay persons. And the nationwide storage of convictions of persons under sec 209 Criminal Code is still being upheld. See Manfred Nowak, 'Austria', in *Homophobia and Discrimination 2008*, p. 20-21.

⁴³⁸ See Manfred Nowak, 'Austria', in *Homophobia and Discrimination 2008*, p. 6-7. The Gleichbehandlungsgesetz, Austria/BGBI I 66/2004, prohibits direct and indirect discrimination on grounds of sexual orientation in the employment sphere.

⁴³⁹ Sexual orientation was first included in the anti-discrimination provision of the Guidelines Ordinance for Police Forces 1993. The first law to include the term is the Youth Protection Law of the City of Vienna 2002.

⁴⁴⁰ Several partner related aspects of criminal law, including the right to refuse testimony against your partner in a criminal court (see H. Graupner, 'Legal Recognition of Same-Sex Partnerships in Austria', in Wintemute & Andenaes 2001, p. 557-559).

⁴⁴¹ A draft Act on registered partnership (Gesetz über die eingetragene Partnerschaft) was presented on 24 October 2007. It is not known if and when it will enter into force (Manfred Nowak, 'Austria', in *Homophobia and Discrimination 2008*, p. 24).

⁴⁴² According to Graupner (1997, p. 596-598) homosexual acts in Portugal were decriminalised in 1852, recriminalised in 1912 ### and then again decriminalised in 1945. However, Ottosson (2008, p. 45, without reference to a source) gives 1983 as the year of decriminalisation, which seems incorrect.

⁴⁴³ Between 1945 and 1995 the age limits were already equal (see Graupner 1997, p. 597-598.) In 2004 a bill was introduced in Parliament to equalise the ages again. And in a judgement of 10 May 2005, the Portuguese Constitutional Court has held that the provision of the Penal Code that sets a higher minimum age for homosexual acts than for heterosexual acts, violates the constitutional equality principle (see 2 *European Anti-Discrimination Law Review* (2005) p. 69-70; available at http://ec.europa.eu/employment_social/fundamental_rights/policy/aneval/legnet_en.htm#lawrev). Portugal's new Penal Code, which took effect in September 2007, equalises the age limits (### See Wikipedia, 'Ages of consent in Europe', accessed 1 November 2008).

⁴⁴⁴ Constitutional Law no. 1/2004, inserting 'sexual orientation' into the prohibition of discrimination in article 13 of the Portuguese Constitution (published in *Diário da República*, no. 173, of 24 July 2004) entered into force on the mainland on 31 July 2004, and on the Azores and Madeira on 10 August 2004. See Miguel Freitas, 'Portugal', in Waaldijk & Bonini-Baraldi 2004, p. 378-379.

⁴⁴⁵ According to Graupner homosexual acts were decriminalised by the Penal Code of 1889 (setting an equal age limit), although in some parts of Italy homosexual acts had already been decriminalised before 1889 (see Graupner 1997, p. 505-506, and F. Leroy Forgeot, *Histoire juridique de l'homosexualité en Europe* Paris: Presses Universitaires de France 1997, p. 66). Ottosson (2008, p. 45, without reference to a source) gives 1890 as the year of decriminalisation. According to Wikipedia ('LGBT Rights in Italy', accessed 1 November 2008) the Penal Code of 1889 entered into force in 1890 ###.

⁴⁴⁶ Idem.

⁴⁴⁷ Under the previous government, several legislative proposals had been presented to the Parliament. A bill approved by the Council of Ministers on 8 February 2008 intended to recognise several civil rights for *de facto* partnership. A bill presented to the Senate on 20 February 2008 aimed at introducing *contratti di unione solidale*. See M. Cartabia, 'Italy', in *Homophobia and Discrimination 2008*, p. 21.

⁴⁴⁸ According to Graupner (1997, p. 466) homosexual acts were decriminalised by the Penal Code adopted in Greece in 1950. Ottosson (2008, p. 45, without reference to a source) gives 1951 as the year of decriminalisation. According to Wikipedia ('LGBT Rights in Greece', accessed 1 November 2008) the Greek Penal Code adopted in 1950 entered into force in 1951 ###.

⁴⁴⁹ In Greece, in the case of 'seduction' the age limit for sex between men is higher (17) than for lesbian or heterosexual sex (15). See Graupner 1997, p. 466.

⁴⁵⁰ See Graupner 1997, and Graupner 2005, p. 125, unless stated otherwise.

⁴⁵¹ See Graupner 2005, p. 124, unless stated otherwise.

⁴⁵² Waaldijk & Bonini-Baraldi 2006, p. 150-152. See also the full references in Wintemute 2001, p. 781-788.

⁴⁵³ See also the full references in Wintemute 2001, p. 781-788.

⁴⁵⁴ Since 1 January 1995, article 141 of the Slovenian Penal Code prohibits (sexual orientation) discrimination with respect to any human right or fundamental freedom. See Tatjana Greif, 'Slovenia', in *Equality for lesbians and gay men – a relevant issue in EU accession process*, Brussels: ILGA-Europe 2001, p. 69 (available at www.ilga-europe.org/europe/publications/non_periodical/equality_for_lesbians_and_gay_men_a_relevant_issue_in_eu_accession_process_2001).

⁴⁵⁵ The *Registration of Same-Sex Partnership Act* was adopted in June 2005 (see the report *Opinion on the situation of homosexuals in Slovenia 2005*, p. 6-8 (published at <http://crldho.cpd.ucl.ac.be/documents/Avis.CFR-CDF/Avis2005/CFRCDF.Opinion2.2005.pdf>) and came into force in 2006 ###.

⁴⁵⁶ Article 1 of the Law on Employment, as amended on 1 October 1999 by Law 167/1999; Article 1 of the Labour Code, as amended by Law 155/2000; Article 2 of the Law on Soldiers, as amended by Law 155/200.

⁴⁵⁷ Article 49 of the Law on Misdemeanors, as amended by Law 273/2001 ###.

⁴⁵⁸ Without giving a specific year, ILGA-Europe states on its website: 'The Czech Republic currently allows unregistered cohabitation status to "persons living in a common household". It gives partners inheritance and succession rights in housing.' (see www.ilga-europe.org/europe/issues/marriage_and_partnership/marriage_and_partnership_rights_for_same_sex_partners_country_by_country, accessed 30 September 2008). This might not be correct ###.

⁴⁵⁹ Waaldijk & Bonini-Baraldi 2006, p. 82-85.

⁴⁶⁰ According to Graupner (1997, p. 692-693) homosexual acts in Hungary were decriminalised by the adoption of the Criminal Code of 1961. Ottosson (2008, p. 45, without reference to a source) gives 1962 as the year of decriminalisation. Perhaps the Criminal Code of 1961 entered into force in 1962 ###.

⁴⁶¹ Article 199 of the Penal Code has an age limit of 18 for homosexual acts and of 14 for heterosexual acts. In 2002 the Constitutional Court ruled that this discriminatory age of consent is unconstitutional.

⁴⁶² The anti-discrimination provision in the Act of Public Health of 1997 (Act No 154) explicitly mentions sexual orientation (Wintemute 2001, p. 785).

⁴⁶³ See Lilla Farkas, 'The Aborted Liberalisation of Gay Rights in Hungary', in Wintemute & Andenaes 2001, p. 569.

⁴⁶⁴ The Hungarian Parliament on 17 December 2007 adopted a law on registered partnership (Act CLXXXIV.2007). It would have made it possible from January 2000 for same-sex and different-sex to register as partners, and thereby acquire most of the legal consequences of marriage, with the exceptions of the right to use each other's name and joint or second-parent adoption. And in the case of same-sex registered partners important exception relate to the non-applicability of the presumption of paternity and to the child's surname (see Orsolya Szeibert-Erdős, 'Same-sex partners in Hungary Cohabitation and registered partnership', in 4 *Utrecht Law Review* 2008, p. 212-221 (full text available at www.utrechtlawreview.org/publish/issues/2008-02/index.html). However, on 15 December 2008 the Act was declared unconstitutional, because the inclusion of different-sex couples contradicts the special protection of marriage enshrined in the Constitution (see Dombos Tamás, 'Hungarian Constitutional Court declares registered partnership law unconstitutional', in *Euroletter*, 160, December 2008, p. 18-19, e at http://ilga-europe.org/europe/publications/euro_letter/2008/in_english). In February 2009 it has been reported that the Hungarian government is introducing a new registered-partnership bill, but this time only including same-sex partners (see Rex Wockner, *International News* #773, 16 February 2009) ###.

⁴⁶⁵ Romanita Elena Iordache & Iustina Ionescu, 'Romania', in *Homophobia and Discrimination 2008*, p. 35, which contradicts the year 2001, given by Graupner 2005, p. 124.

⁴⁶⁶ Romanita Elena Iordache & Iustina Ionescu, 'Romania', in *Homophobia and Discrimination 2008*, p. 7; Waaldijk & Bonini-Baraldi 2006, p. 150.

⁴⁶⁷ Romanita Elena Iordache & Iustina Ionescu, 'Romania', in *Homophobia and Discrimination 2008*, p. 7 and 38.

⁴⁶⁸ Ordinance 30/2006 on the free movement of citizens of the EU and of the EEA, of 28 December 2006, defines 'partner' as 'a person who lives together with a citizen of the EU, if the partnership is registered according to the law of the Member State of origin or, when the partnership is not registered, the relationship can be proved'. See Romanita Elena Iordache & Iustina Ionescu, 'Romania', in *Homophobia & Discrimination 2008*, p. 17.

⁴⁶⁹ See Graupner 2005, p. 124.

⁴⁷⁰ Article 3 of the Citizen of European Union Act of 2006, in its definition of 'family member', speaks of 'any other person who, in the EU citizen's country of origin, is a dependant of the EU citizen or is a member of his/her household'. See 'Estonia', in *Homophobia & Discrimination 2008*, p. 13, 15 and 18. However, the same country report (on p. 15) states that it is not completely certain that same-sex partners will be included in the concept of 'household'.

⁴⁷¹ In Cyprus there is a minimum age of 17 for vaginal and anal intercourse, but this minimum does not apply in case a woman has intercourse with a man younger than 17 (Waaldijk & Bonini-Baraldi 2006, p. 83-85). ###

⁴⁷² Article 4 of the Law on the Rights of Citizens of the Union and their Family Members to Move and Reside Freely in the Territory of the Republic of 2007, speaks of the 'partner with whom a Union citizen has continuous relationship duly proven'. See Nico Trimikliniotis & Corina Demetriou, 'Cyprus', in *Homophobia & Discrimination 2008*, p. 12.

⁴⁷³ On 14 February 2008 the Slovakian Parliament has approved an amendment extending the scope of the Anti-Discrimination Act to goods and services (see 'Slovakia', in *Homophobia and Discrimination 2008*, p. 8), ### in force yet?

⁴⁷⁴ Article 45b of the Act on Residence of Aliens (48/2002), as amended in ### to implement Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, includes in its definition of 'family member' not only spouses, children and dependant direct relatives, but also 'other dependant family members or members of his/her household'. See 'Slovakia', in *Homophobia & Discrimination 2008*, p. 14-15.

⁴⁷⁵ See Graupner 2005, p. 124. The new Penal Code adopted in 2000 came into force on 1 January 2003 (see Waaldijk & Bonini-Baraldi 2006, p. 83-85 and 151).

⁴⁷⁶ The new Penal Code adopted in 2000 and in force since 1 January 2003 contains two anti-discrimination provisions that mention sexual orientation, articles 169 and 170. See Edita Ziobiene, 'Lithuania', in *Homophobia and Discrimination 2008*, p. 9-10; and Waaldijk & Bonini-Baraldi 2006, p. 151.

⁴⁷⁷ Ottosson (2006, p. 4) suggests that the equalisation in Bulgaria of the age limits took place in 2002. But Waaldijk & Bonini-Baraldi (2006, p. 85), on the basis of information provided to them by Graupner, conclude that the year was 2004.###

⁴⁷⁸ The Protection Against Discrimination Act in force since 1 January 2004, not only applies to employers, but also to service providers. See S. Kukova, 'Bulgaria', in *Homophobia and Discrimination 2008*, p. 4 and 10-11.

⁴⁷⁹ The age limits were equalised in by the Latvian Criminal Law of 1998. In 2000 the text was further clarified so as to make clear that for all sexual acts the minimum age is the same (16 if the other is over 18). Between 1998 and 2000 it had been argued that the minimum age of 16 applied only to vaginal heterosexual acts, and that a minimum age of 14 applied to all other acts (see Juris Lavrikovs, 'Latvia: Criminal Law amended to Clarify that Age of Consent is Equal for All', *ILGA-Euroletter* (2001) nr. 91, p. 4 (available at www.ilga-europe.org/europe/publications/euro_letter/2001/in_english)).

⁴⁸⁰ Ilvija Pūce, 'Latvia', in *Homophobia and Discrimination 2008*, p. 9-10.

⁴⁸¹ See Graupner 1997, and Graupner 2005, p. 125, unless stated otherwise.

⁴⁸² See Graupner 2005, p. 124, unless stated otherwise.

⁴⁸³ See also the full references in Wintemute 2001, p. 781-788.

⁴⁸⁴ See also the full references in Wintemute 2001, p. 781-788.

⁴⁸⁵ See also the full references in Wintemute 2001, p. 775-779.

⁴⁸⁶ See John Asland & Kees Waaldijk, in Waaldijk 2005, p. 164.

⁴⁸⁷ Idem, p. 164.

⁴⁸⁸ Idem p. 156-163.

⁴⁸⁹ Idem, p. 156.

⁴⁹⁰ Idem, p. 156-158.

⁴⁹¹ Entry into force is expected for 1 January 2009 ###

⁴⁹² According to Thorvaldsdóttir, the absolute ban on homosexuality was lifted in 1940. See T. Thorvaldsdóttir, 'Iceland 1869-1992: From silence to Rainbow Revolution', in Rydström & Mustola 2007, p. 117.

⁴⁹³ See Hrefna Fridriksdottir & Kees Waaldijk, in Waaldijk 2005, p. 132.

⁴⁹⁴ Idem, p. 132.

⁴⁹⁵ Idem, p. 122-131.

⁴⁹⁶ Idem, p. 122.

⁴⁹⁷ Idem, p. 122-124.

⁴⁹⁸ In five Swiss cantons sex between men had been decriminalised before the entering into force of the first national Penal Code in 1942. See Graupner 1997, p. 640.

⁴⁹⁹ Between 1942 and 1992 the Penal Code prohibited the seduction of persons between 16 and 20 to acts 'against nature', and also same-sex prostitution. See Graupner 1997 p. 641-642.

⁵⁰⁰ Since 1 January 2000, when a revised Federal Constitution of the Swiss Confederation entered into force, the list of grounds in the non-discrimination clause of article 8 of that Constitution has included 'way of life' ('*mode de vie, Lebensform, modo di vita*') which is intended to cover 'sexual orientation'. See François E. Bauer, 'At the End of the Fairy Tale, Will Heidi Stay Single? Same-Sex Partnerships in Switzerland', in Wintemute & Andenaes 2001, p. 534, and the text of the Constitution, as adopted by referendum on 18 April 1999, at www.admin.ch/org/polit/00083/index.html?lang=en.

⁵⁰¹ Idem.

⁵⁰² Since around 2000, there is some case law (supported by legal doctrine) recognising informal same-sex cohabitants (see N. Herz, 'Couples de même sexe non enregistrés', in: R. Ziegler et al. (eds.), *Droits des gays et lesbiennes en Suisse. Partenariat enregistré, communauté de vie de fait, questions juridiques concernant l'homosexualité*. Berne: Stämpfli Editions 2007, p. 76-92).

⁵⁰³ The canton of Geneva adopted a limited registered partnership law in 2001, the canton of Zurich in 2002, National legislation introducing registered partnership came into force in January 2007. See Herz 2007, p. 110 (mentioned in previous note).

⁵⁰⁴ Without giving a year for decriminalisation ###, both Ottosson (2008, p. 45) and Graupner (2005, p. 124) confirm that Andorra does not criminalise homosexual acts.

⁵⁰⁵ Graupner (2005, p. 124-125) does not mention a year ###, although he gives a uniform age limit for heterosexual and homosexual behaviour (16 years).

⁵⁰⁶ See Ottosson 2008, p. 46.

⁵⁰⁷ See Ottosson 2006, p. 7.

⁵⁰⁸ See Ottosson 2008, p. 47.

⁵⁰⁹ ILGA-Europe suggests that registered partners in Andorra have the same rights as married couples with respect to adoption (see www.ilga-europe.org/europe/issues/marriage_and_partnership/marriage_and_partnership_rights_for_same_sex_partners_country_by_country, ### accessed 30 September 2008). However, this is contradicted by Katharina Boele-Woelki et al., *Huwelijk of geregistreerd partnerschap? Evaluatie van de wet openstelling huwelijk en de wet geregistreerd partnerschap*, Deventer: Kluwer 2007, p. 106 (book based on a report written for the Dutch government, report in Dutch plus summary in English available at www.wodc.nl/onderzoeksdatabase/evaluatie-wet-geregistreerd-partnerschap.aspx).

⁵¹⁰ See S. Juras & K. Grđan, *2006 Annual Report on the Status of Human Rights of Sexual and Gender Minorities in Croatia*, Brussels: ILGA Europe, p. 2 (available at www.ilga-europe.org/europe/guide/country_by_country/croatia/2006_annual_report_on_the_status_of_human_rights_of_sexual_and_gender_minorities_in_croatia).

⁵¹¹ Idem.

⁵¹² Idem, p. 6.

⁵¹³ Homosexual acts were decriminalised in different years in the two entities making up Bosnia Herzegovina. According to a report of Organization Q it happened in 1996 in the Federation of Bosnia and Herzegovina and 1998 in the Republika Srpska. See *Rights and Freedoms of Sexual and Gender*

Minorities in Bosnia and Herzegovina: An Analysis of the Relevant Legislation, Sarajevo: Organization Q, 2005(?), p. 3 (available at <http://shc.mediaonweb.org/attachment/000000194.pdf>). This contradicts Ottosson (2006, p. 9) who suggests 1998 as the year of decriminalisation in the Federation, and 2000 as the year of decriminalisation in the Republika Srpska.

⁵¹⁴ Ottosson (2006, p. 4) does not list Bosnia and Herzegovina as a country having different age limits.

⁵¹⁵ Sexual orientation discrimination is explicitly prohibited in the Gender Equality Law of 2003, and also in article 145 of the national Criminal Code (see p. 12-16 of the report mentioned in the previous note). In what year (before or after 2003) article 145 of the Criminal Code entered into force, could not be established ###.

⁵¹⁶ Idem ###.

⁵¹⁷ See Ottosson 2008, p. 45.

⁵¹⁸ Law on Labour Relations of 28 July 2005. More comprehensive anti-discrimination legislation has been in preparation for several years.

⁵¹⁹ See Ottosson 2008, p. 45.

⁵²⁰ Graupner (2005, p. 124) does not mention a year ###, although he gives a uniform age limit for heterosexual and homosexual behaviour (16 years).

⁵²¹ In 2006 a new Labour Code was adopted, including a provision in article 2 prohibiting sexual orientation discrimination. See Sheila Quinn, *Forced Out: LGBT People in Georgia*, Report on ILGA-Europe / COC fact-finding mission, Brussels: ILGA-Europe 2007, p. 43 (available at www.ilga-europe.org/europe/publications/non_periodical/forced_out_lgbt_people_in_georgia_august_2007).

⁵²² See Ottosson 2008, p. 45. According to Wikipedia ('LGBT Rights in San Marino', accessed 21 October 2008) a provision of the Penal Code, in force from 1975 until 2004, criminalized 'habitual' homosexual acts causing 'public scandal' ###.

⁵²³ See Ottosson 2008, p. 45.

⁵²⁴ In the Soviet Union, homosexuality had already been decriminalised in 1917, but was then recriminalised in 1934 (see Igor Kon, 'Russia', in: D. West & R. Green (eds.), *Sociolegal Control of Homosexuality. A Multi-Nation Comparison*, New York: Plenum 1997, p. 223-224).

⁵²⁵ Ottosson 2008, p. 45.

⁵²⁶ See Wikipedia, 'LGBT Rights in Liechtenstein' (accessed 21 October 2008) ###.

⁵²⁷ See Wikipedia, 'LGBT Rights in Liechtenstein' (accessed 21 October 2008) ###.

⁵²⁸ Dennis van der Veur, *Forced Out: LGBT People in Azerbaijan*, Report on ILGA-Europe / COC fact-finding mission, Brussels: ILGA-Europe 2007, p. 24 (available at www.ilga-europe.org/europe/publications/non_periodical/forced_out_lgbt_people_in_azerbaijan_august_2007).

⁵²⁹ See Graupner 2005, p. 125.

⁵³⁰ See Ottosson 2006, p. 4.

⁵³¹ See Ottosson 2008, p. 45.

⁵³² Graupner (2005, p. 124) does not mention a year ###, although he gives a uniform age limit for heterosexual and homosexual behaviour (15 years).

⁵³³ *Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2005 (Events 2004)*, Vienna: International Helsinki Federation for Human Rights, 2005, chapter 'Armenia', p. 14 (available at www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4057).

⁵³⁴ Graupner (2005, p. 124) does not mention a year ###, although he gives a uniform age limit for heterosexual and homosexual behaviour (16 years).

⁵³⁵ However, since 2003 the Penal Code considers sexual orientation as an aggravating motive for crimes. See *Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2005 (Events 2004)*, Vienna: International Helsinki Federation for Human Rights, 2005, chapter 'Armenia', p. 14 (available at www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4057).

⁵³⁶ See Graupner 2005, p. 125.

⁵³⁷ See Graupner 2005, p. 124-125, unless stated otherwise.

⁵³⁸ See Graupner 2005, p. 124, and J. Rydström, 'Greenland and the Faroe Islands 1866-1988: Nordic Peripheries', in Rydström & Mustola 2007, p. 171. According to the latter, homosexuality was only criminalized between 1963 and 1978.

⁵³⁹ See Ottosson 2006, p. 5

⁵⁴⁰ See Ottosson 2008, p. 45. However, according to Graupner (2005, p. 124-125) the penal law of Kosovo still includes a total ban on homosexuality.

⁵⁴¹ The Constitution of the Republic of Kosovo, in force since 15 June 2008, states in its article 24 that no one shall be discriminated on grounds of *inter alia* 'sexual orientation' (see www.kushtetutakosoves.info/repository/docs/Constitution.of.the.Republic.of.Kosovo.pdf). Four years earlier, the Anti-discrimination law entered into force in March 2004 (Law no. 2004/3 of 19 February 2004; English version available at www.unmikonline.org/civpol/gender/doc/Anti-Discrimination-Law-in-Kosovo-2004.pdf); this law explicitly mentions 'sexual orientation' and covers many fields, including employment, social protection, goods and services, and participation in public affairs.

⁵⁴² Idem.

⁵⁴³ See Ottosson 2006, p. 4.

⁵⁴⁴ See Wikipedia, 'LGBT Rights in the Isle of Man' (accessed 22 September 2008) ###.

⁵⁴⁵ See Graupner 2005, p. 124.

⁵⁴⁶ According to Rydström, decriminalisation took place in 1933, for Denmark as well as for the Faroes. See J. Rydström, 'Greenland and the Faroe Islands 1866-1988: Nordic Peripheries', in Rydström & Mustola 2007, p. 150. However, Graupner 2005, p. 125, gives 1930 as the year for decriminalisation in the Faroes.

⁵⁴⁷ J. Rydström, 'Greenland and the Faroe Islands 1866-1988: Nordic Peripheries', in Rydström & Mustola 2007, p. 151.

⁵⁴⁸ According to Wikipedia ('LGBT rights in the Faroe Islands', accessed 22 February 2009) the Parliament of the Faroe Islands inserted 'sexual orientation' into its anti-discrimination legislation ###. However, it seems that this only relates to hate speech (see Birgitte Kofod Olsen, 'Denmark', in *Homophobia & Discrimination 2008*, para. 91).

⁵⁴⁹ Idem.

⁵⁵⁰ See Ottosson 2006, p. 4.

⁵⁵¹ See Ottosson 2006, p. 4.

⁵⁵² According to Ottosson (2008, p. 40) there a plans to repeal the prohibition on 'crimes against nature' between men in the Turkish Republic of Northern Cyprus. According to Wikipedia ('LGBT rights in Cyprus', accessed 22 September 2008) this repeal is part of a new Criminal Code, entering into force on 1 January 2009.###.

⁵⁵³ The legal situation with respect to these matters in the archipelago of Svalbard (which includes the island of Spitsbergen) is probably the same as in Norway, although according to Wikipedia ('Svalbard', accessed 1 November 2008) 'Norway's power over Svalbard has some limitations in taxation, environmental conservation, non-discrimination and certain military activity'.

⁵⁵⁴ According to Ottosson (2006, p. 4) the Chechen Republic in Russia still criminalises sex between men. However, in 2008 (p. 45) he no longer includes Chechnya in his list of countries having such a prohibition.###

⁵⁵⁵ See Graupner 2005, p. 145, unless stated otherwise.

⁵⁵⁶ See also Wintemute 2001, p. 782-783.

⁵⁵⁷ At the level of the Commonwealth of Australia various sections of the Workplace Relations Act 1996 prohibits discrimination based on 'sexual preference' (see www.austlii.edu.au/forms/search1.html?&).

⁵⁵⁸ An explicit prohibition of sexual orientation discrimination at the level of the Commonwealth of Australia can be found in section 55.5 of the Private Health Insurance Act 2007 (No. 31, 2007, www.austlii.edu.au/au/legis/cth/consol_act/phia2007248/).

⁵⁵⁹ Until 1997, sections 122(a) and (c) and 123 of the Tasmanian Criminal Code criminalised homosexual acts between men. Section 122 has been amended, and section 123, repealed by the Criminal Code Amendment Act 1997, which came into force on 14 May 1997 (text available at www.austlii.edu.au/au/legis/tas/num_act/ccaa199712o1997241/preamble.html). Already in 1994, the Australian legislature had adopted the Human Rights (Sexual Conduct) Act 1994 (available at www.austlii.edu.au/au/legis/cth/consol_act/hrca1994297/s4.html). Section 4 of that Act states: 'Sexual conduct involving only consenting adults acting in private is not to be subject, by or under any law of the Commonwealth, a State or a Territory, to any arbitrary interference with privacy within the meaning of Article 17 of the International Covenant on Civil and Political Rights.' This Act came into force on 19 December

1994, and was a response to the views of the UN Human Rights Committee expressed on 31 March 1994 in the case of *Toonen vs. Australia* (communication 488/1992, www.unhcr.ch/tbs/doc.nsf/0/d22a00bcd1320c9c80256724005e60d5), considering the continuing criminalisation of homosexual acts in Tasmania to be a violation of Article 17 and 2 of the International Covenant.

⁵⁶⁰ At first sight, Tasmania seems to have gender neutral age limits, but Section 124 of the Criminal Code Act 1924, as amended (www.austlii.edu.au/au/legis/tas/consol_act/cca1924115/s13.html), still sets a different age limit for anal sex than for other forms of sex.

⁵⁶¹ In Tasmania the Anti-Discrimination Act 1998 prohibits sexual orientation discrimination with respect to work, goods and services (www.austlii.edu.au/au/legis/tas/consol_act/aa1998204/; Ottosson 2008, p. 46 suggests this law is in force since 1999###).

⁵⁶² Idem.

⁵⁶³ In Tasmania the Relationships Act 2003 introduces the categories of 'significant relationship' and 'caring relationship'. Two adults can register their relationship under either category. But even if they have not registered as such, it is possible to prove that they fall under either category (see www.austlii.edu.au/au/legis/tas/consol_act/ra2003173/). According to Wikipedia ('Domestic partnership in Tasmania', accessed 23 January 2009) this law entered into force on 1 January 2004###.

⁵⁶⁴ Idem.

⁵⁶⁵ According to Wikipedia ('LGBT rights in Australia', accessed 23 January 2009) since 2001 second-parent adoption is possible for a same-sex partner in Tasmania.###

⁵⁶⁶ For Western Australia, Graupner (2005, p. 145) gives 1989 as the year for decriminalisation ###, but Ottosson (2006, p. 9) speaks of 1990.

⁵⁶⁷ In Western Australia the Equal Opportunity Act 1984 (www.austlii.edu.au/au/legis/wa/consol_act/eoa1984250/), since its amendment by the 'Acts Amendment(Lesbian and Gay Law Reform) Act 2001' (see the bill at www.austlii.edu.au/au/legis/wa/bill/aaaglr2001353/), prohibits sexual orientation discrimination with respect to work, goods and services. Ottosson (2008, p. 46) suggests the latter law is in force since 2002).###

⁵⁶⁸ Idem.

⁵⁶⁹ See Ottosson 2008, p. 48.

⁵⁷⁰ In the Capital Territory joint adoption is possible since 2004 (see Ottosson 2008, p. 48).

⁵⁷¹ See Ottosson 2006, p. 9 and Graupner 2005, p. 145.

⁵⁷² In the Capital Territory Section 7 of the Discrimination Act 1991 prohibits discrimination on grounds of 'sexuality' with respect to work, goods and services (www.austlii.edu.au/au/legis/act/consol_act/da1991164/; Ottosson 2008, p. 46 suggests this law is in force since 1992###). See also Section 8 of Human Rights Act 2004 (www.austlii.edu.au/au/legis/act/consol_act/hra2004148/).

⁵⁷³ Idem.

⁵⁷⁴ According to Ottosson 2008, p. 48, the first such law came to the Australian Capital Territory in 1994; Wintemute 2001, p. 775, refer to the Domestic Relationships Act 1994.

⁵⁷⁵ In the Capital Territory the Civil Partnerships Act 2008 entered into force on 19 May 2008 (see www.legislation.act.gov.au/a/2008-14/).

⁵⁷⁶ In Western Australia joint adoption is possible since 2004 (see Ottosson 2008, p. 48).

⁵⁷⁷ For Victoria, Graupner (2005, p. 145) gives 1980 as the year for decriminalisation ###, but Ottosson (2006, p. 9) speaks of 1981.

⁵⁷⁸ In Victoria the Equal Opportunity Act 1995 (www.austlii.edu.au/au/legis/vic/consol_act/eoa1995250/), since its amendment by the Equal Opportunity (Gender Identity and Sexual Orientation) Act 2000 (see the bill at www.austlii.edu.au/au/legis/vic/bill/eoiasob2000626/) prohibits discrimination on the grounds of 'sexual orientation', both with respect to work and to goods and services. Unclear if the law took effect in 2000 or on 1 January 2001###. Ottosson (2008, p. 46) suggests there was already a prohibition in 1996, but it seems that then only discrimination on grounds of 'lawful sexual activity' was prohibited.###

⁵⁷⁹ Idem.

⁵⁸⁰ According to Ottosson 2008, p. 48, the first such law came to Victoria in 2001; Wintemute 2001, p. 775, refer to the Statute Law Amendment (Relationships) Act 2001.

⁵⁸¹ In Victoria the Relationships Act 2008 introduces partnership registration. According to Wikipedia ('Recognition of same-sex unions in Australia', accessed 23 January 2009) this law came into force on 1 December 2008.###

⁵⁸² For New South Wales, Graupner (2005, p. 145) gives '1987/90' as the years for decriminalisation (without further explanation) ###, but Ottosson (2006, p. 9) speaks of 1984 ###.

⁵⁸³ In New South Wales Part 4C of the Anti-Discrimination Act 1977, since its amendment by the Anti-Discrimination (Amendment) Act 1982, prohibits discrimination on grounds of 'homosexuality' with respect to work, goods and services (www.austlii.edu.au/au/legis/nsw/consol_act/aa1977204/; Ottosson 2008, p. 46, suggests the amendment took effect in 1983###).

⁵⁸⁴ Idem.

⁵⁸⁵ According to Ottosson (2008, p. 48) the first such legislation in New South Wales came in 2002###, but Wintemute (2001, p. 775) refer to the Property (Relationships) Legislation Amendment Act 1999 ###.

⁵⁸⁶ For Queensland, Graupner (2005, p. 145) gives 1990 as the year for decriminalisation ###, but Ottosson (2006, p. 9) speaks of 1991.

⁵⁸⁷ In Queensland the Criminal Code 1899 sets an age limit of 18 years for 'sodomy' is 18 years (Section 208) and age limits of 16 years for other forms of sex (sections 210 and 215). See www.austlii.edu.au/au/legis/qld/consol_act/cc189994/.

⁵⁸⁸ In Queensland the Industrial Relations Act 1999 prohibits discrimination on grounds of 'sexual preference' (www.austlii.edu.au/au/legis/qld/consol_act/ira1999242/). Furthermore the Anti-Discrimination Act 1991 (www.austlii.edu.au/au/legis/qld/consol_act/aa1991204/), since its amendment by the Discrimination Law Amendment Act 2002 (www.austlii.edu.au/cgi-

[bin/sinodisp/au/legis/qld/bill/dlab2002287/](http://www.austlii.edu.au/au/legis/qld/bill/dlab2002287/)), prohibits discrimination on the ground of 'sexuality', both with respect to work and to goods and services. Unclear when the latter law took effect####. Both Wintemute (2001, p. 782) and Ottosson (2008, p. 46) claim that Queensland already prohibited sexual orientation discrimination in 1991 or 1992, but it seems that then only discrimination on grounds of 'lawful sexual activity' was prohibited.###

⁵⁸⁹ See previous note.

⁵⁹⁰ According to Ottosson 2008, p. 48, such legislation came to Queensland in 1999 and 2002; Wintemute 2001, p. 775, refer to the Property Law Amendment Act 1999 and the Industrial Relations Act 1999.

⁵⁹¹ For South Australia, Graupner (2005, p. 145) gives 1972 as the year for decriminalisation ###, but Ottosson (2006, p. 9) speaks of 1975.

⁵⁹² In South Australia the Equal Opportunity Act 1984, in force since 1986, prohibits discrimination based on 'heterosexuality, homosexuality, bisexuality or transsexuality' with respect to work, goods and services (www.austlii.edu.au/au/legis/sa/consol_act/EOA1984250/).

⁵⁹³ Idem.

⁵⁹⁴ See Ottosson 2008, p. 48.

⁵⁹⁵ According to Graupner (2005, p. 145, 147 and 150) the total ban on homosexual acts in the Northern Territory was lifted in 1983, but not for situations with more than two persons present. According to Ottosson (2006, p. 9) decriminalisation took place in 1984.

⁵⁹⁶ In the Northern Territory the Anti-Discrimination Act (www.austlii.edu.au/au/legis/nt/consol_act/AA204/) prohibits discrimination on the ground of 'sexuality' with respect to work, goods and services. Wintemute (2001, p. 782) call it the "Anti-Discrimination Act 1992", while Ottosson (2008, p. 46) suggests this law is in force since 1993.###

⁵⁹⁷ Idem.

⁵⁹⁸ See Ottosson 2008, p. 48.

⁵⁹⁹ See Ottosson 2006, p. 9.

⁶⁰⁰ See Ottosson 2008, p. 48.

⁶⁰¹ In New Zealand, homosexual acts are legal since 1986 (Ottosson 2008, p. 45; Graupner 2005, p. 145).

⁶⁰² However, it seems that section 134 of the Crimes Act 1961, since its amendment by the Crimes Amendment Act 2005 (which took effect on 20 May 2005), now sets a gender neutral age limit of 16 years for 'sexual connection' (see www.legislation.govt.nz/act/searchquick.aspx). Where Graupner (2005, p. 145) refers to different age limits, this probably reflects the situation as it was before May 2005.### However, it has also been claimed that the age limits have been equal since 1986 (see Wikipedia, 'Ages of consent in Oceania', accessed 23 January 2009).###

⁶⁰³ In New Zealand the Human Rights Act 1993 (which entered into force on 1 February 2004) prohibits discrimination on the ground of sexual orientation (defined in Section 21 as 'heterosexual, homosexual, lesbian, or bisexual orientation') with respect to work, goods and services. See also Section 19 of the

New Zealand Bill of Rights Act 1990 and Section 105 of the Employment Relations Act 2000. The text of these three laws can be found at www.legislation.govt.nz/act/searchquick.aspx.

⁶⁰⁴ Idem.

⁶⁰⁵ For New Zealand, Wintemute 2001, p. 775, refer to several such laws, the first of which is the Electricity Act 1992 (Section 111, which defines 'near relative' as including someone's 'de facto partner'). The main law now is the Property (Relationships) Act 1976, as amended and renamed by the Property (Relationships) Amendment Act 2001, which took effect on 1 February 2002 extending the scope of the 1976 Act to include same-sex *de facto* couples. The text of these laws can be found at www.legislation.govt.nz/act/searchquick.aspx.

⁶⁰⁶ New Zealand's Civil Union Act 2004, together with the Relationships (Statutory References) Act 2005, entered into force on 26 April 2005 (see www.legislation.govt.nz/act/searchquick.aspx).

⁶⁰⁷ The text of the Fiji Penal Code (available at www.itc.gov.fj/lawnet/fiji_act/penal_code.html and at www.paclii.org/fj/legis/consol_act/pc66) still contains provisions criminalising 'carnal knowledge of any person against the order of nature' (section 175) and criminalising any 'male person who, whether in public or private, commits any act of gross indecency with another male person' (section 177). However, on the appeal of two men convicted for such behaviour, the High Court of Fiji has declared that these provisions are 'inconsistent with the Constitution and invalid to the extent that this law criminalizes acts constituting the private consensual sexual conduct of adult males' (*Nadan v The State* [2005] FJHC 1; Haa0085 & 0086.2005, 26 August 2005; text of the judgment available at www.paclii.org/fj/cases/FJHC/2005/1.html). Because the High Court is not the highest court of Fiji, the current situation is somewhat unclear. According to Wikipedia ('LGBT rights in Fiji', accessed 23 January 2009) there now is a policy not to arrest gay men for consensual sex ###.

⁶⁰⁸ On 27 July 1998 the current Constitution of Fiji entered into force (see its Section 193, www.paclii.org/fj/legis/num_act/ca1997268 or www.servat.unibe.ch/law/icl/fj_indx.html). Its Section 38(2) states: 'A person must not be unfairly discriminated against, directly or indirectly, on the ground of his or her actual or supposed personal characteristics or circumstances, including (...) sexual orientation'. From the text of Section 38 it is not clear if this also applies to discrimination in (public) employment ###, but according to its subsections (3) it clearly applies to laws and to administrative action. The content of Section 38 has been repeated in Section 19 of the Fundamental Rights and Freedoms Decree 2000 (Interim Military Government Decree no. 7 of 2007, www.paclii.org/fj/legis/num_act/fracd2000302) which entered into force on 29 May 2000. Furthermore, Section 6(2) of the Employment Relations Promulgation 2007 (www.paclii.org/fj/promu/promu_dec/erp2007381) provides: 'No person shall discriminate against any worker or prospective worker on the grounds of (...) sexual orientation, (...) marital status, (...) state of health including real or perceived HIV status, (...) in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment or other matters arising out of the employment relationship.' The Promulgation entered into force on 1 October 2007 (see www.ilo.org/dyn/natlex/natlex_browse.home).

⁶⁰⁹ Section 38(4) of the Fiji Constitution (see previous note) also prohibits 'discrimination on a prohibited ground' with respect to access 'to shops, hotels, lodging-houses, public restaurants, places of public entertainment, public transport services, taxis and public places'.

⁶¹⁰ On the Marshall Islands homosexual acts are legal since 2005 (see Ottosson 2008, p. 45).

⁶¹¹ On the Marshall Islands Section 153 of the Criminal Code (Title 31 of Marshall Islands Revised Code 2004, www.paclii.org/mh/legis/consol_act_new/cc94) sets a gender neutral age limit of 16 years. Unclear in force since when###.

⁶¹² In Vanuatu homosexual are legal (see Ottosson 2008, p. 45, who does not specify since when).

⁶¹³ In Vanuatu the Penal Code (www.paclii.org/vu/legis/consol_act/pc66) provides that 'no person shall have sexual intercourse with any girl under the age of 15 years' (section 97) and that 'no person shall commit any homosexual act with a person of the same sex under 18 years of age, whether or not that person consents' (section 99).

⁶¹⁴ In Micronesia homosexual acts are legal (see Ottosson 2008, p. 45, who does not specify since when).

⁶¹⁵ It seems that in most ### of the four Federated States of Micronesia a gender neutral age limit of 13 years applies (see <http://fsmlaw.org/search.htm>, and search for "sexual abuse").

⁶¹⁶ In Papua New Guinea 'carnal knowledge against the order of nature' and 'gross indecency' between males is still a crime (see Ottosson 2008, p. 31; confirmed by Graupner 2005, p. 145 and 147).

⁶¹⁷ On the Solomon Islands 'buggery' and 'gross indecency' between women or between men is still a crime (see Ottosson 2008, p. 35).

⁶¹⁸ On Kiribati 'buggery' and 'gross indecency' between males is still a crime (see Ottosson 2008, p. 21).

⁶¹⁹ On Nauru 'carnal knowledge against the order of nature' is still a crime (see Ottosson 2008, p. 27).

⁶²⁰ On Palau 'sodomy' is still a crime (see Ottosson 2008, p. 31).

⁶²¹ In (Western) Samoa 'sodomy' and 'indecency between males' is still a crime (see Ottosson 2008, p. 42).

⁶²² In Samoa there is no explicit prohibition of sexual orientation discrimination, but section 2 of the Mental Health Act 2007 (www.paclii.org/ws/legis/consol_act/mha2007128/) provides that 'that a person is not to be considered mentally ill by reason only (...) that the person expresses or refuses or fails to express a particular sexual preference or sexual orientation'.

⁶²³ In Tonga 'sodomy' and 'any indecent assault upon any male person' is still a crime (see Ottosson 2008, p. 39).

⁶²⁴ In Tuvalu 'buggery' and 'gross indecency' between males is still a crime (see Ottosson 2008, p. 40; confirmed by Graupner 2005, p. 145 and 147).

⁶²⁵ See Wikipedia ('LGBT rights in Oceania', accessed 23 January 2009).###

⁶²⁶ See Wikipedia ('LGBT rights in Oceania', accessed 23 January 2009).###

⁶²⁷ See Wikipedia ('LGBT rights in Oceania', accessed 23 January 2009).###

⁶²⁸ See Wikipedia ('LGBT rights in Oceania', accessed 23 January 2009).###

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⁶³¹ See Wikipedia ('LGBT rights in Oceania', accessed 23 January 2009).###

⁶³² See Wikipedia ('LGBT rights in Oceania', accessed 23 January 2009).###

⁶³³ See Wikipedia ('LGBT rights in Oceania', accessed 23 January 2009).###

⁶³⁴ See Wikipedia ('LGBT rights in Oceania', accessed 23 January 2009).###

⁶³⁵ On Niue 'buggery' and (even consensual) 'indecent assault' by a man on a man is still a crime, according to Ottosson (2008, p. 30), but according to Wikipedia ('LGBT rights in Oceania', accessed 23 January 2009) it has been decriminalised in 2007.###

⁶³⁶ In Tokelau 'buggery' and (even consensual) 'indecent assault' by a man on a man is still a crime (see Ottosson 2008, p. 38), but according to Wikipedia ('LGBT rights in Oceania', accessed 23 January 2009) it has been decriminalised in 2007.###

⁶³⁷ On the Cook Islands 'sodomy' and 'indecent between males' is still a crime (see Ottosson 2008, p. 12, and Wikipedia, 'LGBT rights in Oceania', accessed 23 January 2009).