

Answer

of the German Federal Government

**to the minor interpellation tabled by the Members of the German Bundestag Volker Beck, Irmingard Schewe-Gerigk, Winfried Nachtwei, further Members of the German Bundestag and the Alliance 90/The Greens parliamentary group
– Printed Paper 16/3044 –**

Criminal law provisions on homosexuality and their application around the world

Preliminary remarks by the Members who tabled the minor interpellation

The legal treatment of lesbian, gay, bisexual and transgender (LGBT) people varies widely around the world, e.g. as regards the age of consent, prohibited practices, complete prohibitions on homosexual acts and the criminalisation of homosexual orientation. Prosecution under criminal law can have life-or-death significance for the individual. Ultimately, it is the practical application of the law, and the severity of the sanctions, discrimination and prosecution faced by the persons concerned that remain decisive for their way of life.

The prosecution of homosexuality under criminal law means that a considerable proportion of the population are forced to live with constant secrecy and lies and are hindered from developing their personalities. The European Court of Human Rights has ruled clearly that the prosecution of consensual homosexual acts between adults is a breach of their human rights (Dudgeon/UK, ECHR, ruling of 22 October 1981). The Human Rights Committee of the United Nations also recognised long ago that any total prohibition of homosexual acts contravenes the protection of sexual orientation guaranteed by the International Covenant on Civil and Political Rights (Toonen/Australia, United Nations Human Rights Committee, U.N. Doc CCPR/C/50/D/488/1992 [1994] of 31 March 1994). The suppression of homosexuality anchored in law and organised or tolerated by the state is incompatible with the equality of all the state's citizens, the rights to freedom of opinion, freedom of conscience and freedom of information and the rights to privacy and physical integrity.

In some countries, 19th century European legislation lives on in the form of inherited colonial law, although these provisions are viewed today as expressions of regional traditions and customs. From this perspective, the existence of LGBT is rejected for the most part as a Western phenomenon,

despite the fact that, to a large extent, the legal treatment of homosexuality in the form of restrictions and prohibitions was first introduced to Africa by European colonisation. Hitherto, there have been very few sources of information about the legal situation around the world.

In individual cases, the human rights of German citizens too may be endangered in a very real way by the criminal prosecution of homosexuality in certain countries. In Uganda, consensual homosexual acts can be punished with life imprisonment (cf. the African portal www.mask.org.za/index.php?page=uganda). The Ugandan media support the persecution of homosexuals by publishing lists of names (cf. Amnesty International Document AFR 59/007/2006). In Jamaica, consensual homosexual acts between adults contravene Articles 76, 77 and 79 of the Offences against the Person Act (AMR 38/002/2006), while in Guyana consensual sexual acts between men contravene paragraphs 531 to 533 of the Criminal Law Act (AMR 01/002/2006). Article 204 of the Nicaraguan Penal Code permits the punishment of those who engage in consensual homosexual acts, provide assistance or are involved in campaigning (AMR 43/001/2006). In Cameroon, eight men and a 17-year-old were temporarily detained for homosexuality on the basis of Section 347a of the Cameroonian Penal Code. One of the detainees died several days after his release (AFR 17/003/2006). In Nigeria, draft legislation is being considered that would set a penalty of up to five years of imprisonment for all homosexual acts, campaigning on civil rights for homosexuals, displays of homosexual orientation and the aiding and abetting of these activities (AFR 44/013/2006). In Swaziland, there are proposals for legislation that would introduce prison sentences of not less than two years for consensual homosexual acts between adults (AFR 55/003/2006). Since 2005, Poland has been applying its laws with increasing hostility towards lesbian, gay and transgender people (EUR 37/002/2005). Much the same is true of Moldova (cf. Human Rights Watch, article of 20 May 2006) and the Russian Federation (cf. Human Rights Watch, 2 June 2006). At the same time, a proposed law is being considered in the Philippines that would prohibit discrimination on grounds of sexuality in the fields of employment, services, education, healthcare and housing (cf. Human Rights Watch, 8 August 2006).

As a service that would support the work of associations and assist individuals, an exhaustive, reliable overview that makes information on the latest developments available would be an effective way of protecting the rights of German citizens at home and abroad. With its permanent representations around the world, the German Federal Government possesses an easily accessible research capacity that is unparalleled in Germany. No organisation or private individual could take its place in this respect. The major interpellation tabled by the Alliance 90/The Greens parliamentary group during the 13th electoral term received no answer at that time. This minor interpellation supplements the major interpellation tabled by the Alliance 90/The Greens parliamentary group "on the human rights situation of lesbian, gay, bisexual and transgender people" (cf. Bundestag Printed Paper 16/2084).

Preliminary remarks of the German Federal Government

The following answers are based on data available to the German Federal Government that is assessed to be up to date and trustworthy. The German Federal Government can accept no responsibility for their correctness and completeness. The legal situation and the actual application of criminal law, both in the countries discussed in the answers and in other countries, can change at any time without this coming to the attention of the German Federal Government.

It is to be noted that the moral standards, rules of social conduct and provisions in place in (criminal) law in other countries sometimes differ greatly from the norms encountered in Germany and infringements are often punished correspondingly more severely. Anyone who is planning to travel or take up residence abroad should therefore inform themselves carefully about the conditions prevailing in their country of destination shortly before their departure. In case of doubt, up-to-date and authoritative information about the validity and application of legal regulations in a particular host country can only be supplied by the responsible diplomatic and consular representations based in that country.

1. Which countries prohibit homosexual orientation or consensual homosexual activity between adults or have customary law that has this effect?

As far as the German Federal Government is aware, consensual homosexual acts between adults are prohibited in the following countries:

Afghanistan, Algeria, Antigua and Barbuda, Bahamas, Bahrain, Bangladesh, Barbados, Bhutan, Botswana, Brunei Darussalam, Burkina Faso, Cameroon, Central African Republic, Democratic Republic of Congo, Dominica, Egypt, Eritrea, Ethiopia, Fiji, Gabon, Gambia, Ghana, Grenada, Guinea, Guyana, India, Iran, Iraq, Jamaica, Kenya, Kiribati, Kuwait, Lebanon, Lesotho, Libya, Malawi, Malaysia, Maldives, Mauritania, Mauritius, Morocco, Myanmar, Namibia, Nauru, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Palestine, Panama, Papua New Guinea, Qatar, Samoa, Saudi Arabia, Senegal, Seychelles, Singapore, Solomon Islands, Somalia, Sri Lanka, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sudan, Swaziland, Syria, Tanzania, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkmenistan, Tuvalu, Uganda, United Arab Emirates, Uzbekistan, Yemen, Zambia and Zimbabwe.

- a) Where they are available, what is the wording of the provisions that relate to homosexuality?

For the wording of the relevant provisions, where available, please see Annex 1.

- b) What interpretations are put on the legal concepts used?

How are the offences in question defined?

In most of the countries in which consensual homosexual acts between adults are prohibited, they are defined as “carnal knowledge against the order of nature” or “gross indecency”. Prosecution is occasionally possible for the offences of “causing a public nuisance” or “lewd acts”. For the most part, the prohibitive provisions in question relate only to homosexual acts between men. For further details, please see the answer to question 1a).

c) How is the law applied in practice?

Are the provisions implemented?

Is there organised prosecution?

How severe are the sanctions that are usually imposed in practice?

Due to the extensive taboos surrounding this topic in most of the countries concerned, only patchy information is available to the German Federal Government about the ways the law is applied in practice. This information allows the conclusion that the relevant provisions are not implemented rigorously in the majority of states. In this respect, the stringent rules on the burden of proof in Sharia law are among the factors that play a role, as is the fact that the prohibitions in question often relate to offences that are only prosecuted if a complaint has been made. Furthermore, the dominant social consensus in a range of countries appears to be that consensual homosexual acts between adults are to be tolerated as long as they do not take place in public. By contrast, homosexual acts with minors are, in general, prosecuted rigorously.

d) What impact do these provisions have on the lives of individuals?

At a fundamental level, the prohibition of consensual homosexual acts between adults, usually in combination with powerful social taboos and ostracism, results in discrimination against the members of sexual minorities in the countries in question. The German Federal Government is not aware of the impact this has on the lives of individual members of sexual minorities.

e) When were these prohibitions incorporated into the legal systems of these countries, and who introduced these prohibitions?

Are these provisions generally inherited from colonial law?

Where they are known, the dates when the relevant prohibitive provisions entered into force are listed in the answers to question 1a). In a range of cases, these provisions are adaptations of earlier legislation, some of it dating from the colonial period, whilst in other cases such legislation continues to apply unchanged.

2. In which countries are there different provisions on the age of consent for homosexual and heterosexual acts?

Are there offences covered by criminal provisions that are defined differently when they relate to homosexual and heterosexual acts?

Where this is the case, in what ways do they differ?

As far as the German Federal Government is aware, there are different provisions on the age of consent for homosexual and heterosexual acts in Chile, Ecuador, Greece, Madagascar, Niger, Paraguay, Portugal, South Africa and Zimbabwe. For further details, please see Annex 2.

As far as the German Federal Government is aware, offences are defined differently depending on whether they involve heterosexual or homosexual acts in Albania, Ethiopia, Kuwait, Morocco and Oman. For further details, please see Annex 3.

Annex 1: Wording of provisions relevant to the prosecution of homosexuality

Country	Wording of provisions relevant to the prosecution of homosexuality
Afghanistan	<p>The Afghan Penal Code does not contain any explicit provisions on the criminality of consensual homosexual acts. However, it is possible for recourse to be made to Article 427, which provides for a term of imprisonment of between five and 15 years for adultery and pederasty (without consideration of aggravating circumstances). In addition to this, Article 130 of the Constitution allows recourse to be made to Sharia law, which prohibits homosexuality in general.</p>
Algeria	<p>Source: Penal Code (Code pénal), 1966</p> <p>Article 338: “Any person guilty of a homosexual act shall be punished with a term of imprisonment of between two months and two years and a fine of between 500 and 2,000 Algerian dinars. Should one of the participants be below the age of 18, the penalty for the older person may be raised to a term of imprisonment of three years and a fine of 10,000 dinars.”</p> <p>Article 333: “Any person who causes a public nuisance shall be punished with a term of imprisonment of between two months and two years and a fine of between 500 and 2,000 Algerian dinars. Should the public nuisance have consisted of an unnatural act with an individual of the same sex, the penalty shall be a term of imprisonment of between six months and three years and a fine of between 1,000 and 10,000 Algerian dinars.”</p>
Antigua and Barbuda	<p>Source: Sexual Offences Act, No. 9, 1995</p> <p>12. Buggery</p> <p>“(1) A person who commits buggery is guilty of an offence and is liable on conviction to imprisonment –</p> <p>(a) for life, if committed by an adult on a minor;</p> <p>(b) for fifteen years, if committed by an adult on another adult;</p> <p>(c) for five years, if committed by a minor.</p> <p>(2) In this section “buggery” means sexual intercourse per anum by a male person with a male person or by a male person with a female person.”</p> <p>15. Serious indecency</p> <p>“(1) A person who commits an act of serious indecency on or towards another is guilty of an offence and is liable to conviction to imprisonment –</p> <p>(a) for ten years, if committed on or towards a minor under sixteen years of age;</p> <p>(b) for five years, if committed on or towards a person</p>

	<p>sixteen years of age or more.</p> <p>(2) Subsection (1) does not apply to an act of serious indecency committed in private between –</p> <p>(a) a husband and his wife; or</p> <p>(b) a male person and a female person each of whom is sixteen years of age or more.</p> <p>(3) An act of “serious indecency” is an act, other than sexual intercourse (whether natural or unnatural), by a person involving the use of the genital organ for the purpose of arousing or gratifying sexual desire.”</p>
Bahamas	No current legislation available.
Bahrain	No current legislation available.
Bangladesh	<p>Source: Bangladesh Penal Code Section 377: Unnatural Offences</p> <p>“Whoever voluntarily has carnal intercourse against the order of nature with man, woman, or animal, shall be punished with imprisonment of either description which may extend to life, or up to 10 years, and shall also be liable to fine.”</p>
Barbados	<p>Source: Sexual Offences Act, Act No. 3, 1992</p> <p>9. “Any person who commits buggery is guilty of an offence and is liable on conviction on indictment to imprisonment for life.”</p> <p>12. “Serious indecency”, defined as “an act, other than sexual intercourse (whether natural or unnatural) by a person involving the use of the genital organs for the purpose of arousing or gratifying sexual desire,” is also prohibited and is punishable with a prison sentence of up to ten years if both parties are over the age of 16 and up to fifteen years if committed on a minor.</p> <p>[Note: Article 12 also covers lesbian acts.]</p>
Bhutan	<p>Source: Bhutan Penal Code, 2004</p> <p>Article 213: Unnatural sex</p> <p>“A defendant shall be guilty of the offence of unnatural sex, if the defendant engages in sodomy or any other sexual conduct that is against the order of nature.”</p> <p>According to Article 214, this is a “petty misdemeanour” that, under the general provisions of the Penal Code (Article 13), is punishable with a maximum term of imprisonment of less than one year and a minimum term of one month.</p>
Botswana	<p>Source: Penal Code</p> <p>164. Unnatural offences</p> <p>“Any person who;</p> <p>(a) has carnal knowledge of any person against the order of nature;</p>

	<p>(b) has carnal knowledge of any animal; or (c) permits any other person to have carnal knowledge of him or her against the order of nature, is guilty of an offence and is liable to imprisonment for a term not exceeding seven years” 167. Indecent practices between persons “Any person who, whether in public or private, commits any act of gross indecency with another person, or procures another person to commit any act of gross indecency with him or her, or attempts to procure the commission of any such act by any person with himself or herself or with another person, whether in public or private, is guilty of an offence.”</p>
Brunei Darussalam	No current legislation available.
Burkina Faso	<p>Source: Penal Code, Section 8: Offences against morals Article 410: “Any person who causes a public nuisance shall be punished with a term of imprisonment of between two months and two years and a fine of between 50,000 and 600,000 francs. Any deliberate act that is contrary to good morals and is committed in public or in a private place visible to the public and may offend the sense of decency of third parties who involuntarily witness the act shall constitute a public nuisance. However, any such act, if it is committed in private in the presence of a minor, shall constitute the offence of the indecent incitement of minors.” Article 411: “Any act of a sexual nature that is contrary to good morals and is committed directly and deliberately on another person with or without force, compulsion or surprise, shall constitute an offence against (public) decency.” Articles 412-415 regulate “offences against (public) decency” on minors, with and without force, compulsion or surprise, and provide for terms of imprisonment of between two months and ten years. Article 416: “Any person who commits, or attempts to commit, an offence against (public) decency on a person of either sex with force, compulsion or surprise shall be punished with a term of imprisonment of between one and three years. Should the offender be the minor’s guardian, or should he have abused the guardianship that he holds by dint of his office, or should he have committed the act jointly with others, he shall be punished with a term of imprisonment of between three and five years.”</p>
Cameroon	Source: Penal Code, 1965

<p>Central African Republic</p>	<p>Section 347: Homosexuality– “Any person who has sexual relations with a person of the same sex shall be punished with a term of imprisonment of five years and a fine of between 20,000 and 200,000 francs.”</p> <p>No current legislation available.</p>
<p>Democratic Republic of Congo</p>	<p>Source: Penal Code (Code pénal) Article 168: “Any assault on decency that is committed against a person of either sex with force, deception or threats shall be punished with a term of imprisonment of between six months and five years. Should the attack have been committed on or with the aid of one of the persons specified in the preceding provision, the penalty shall be between five and 20 years.”</p>
<p>Dominica</p>	<p>Source: Sexual Offences Act, 1998 Article 14: “Any person who commits an act of gross indecency with another person is guilty of an offense and is liable on conviction to imprisonment for five years.” Article 15: Buggery (for both men and women) is punished with up to ten years imprisonment. The court may also commit the offender to a psychological hospital instead of imprisonment. Article 16: Attempted buggery is punished with up to four years imprisonment.</p>
<p>Egypt</p>	<p>The criminal prosecution of homosexual acts is based on general criminal offences, usually that of “sexual debauchery” (Arabic: <i>fugūr</i>) under Article 9(c) of Egyptian Law 10/1961 on the Combating of Prostitution. Other offences that come into question are “contempt for religion” (Article 98w of the Penal Code), the “possession of immoral printed or pictorial materials” (Article 178 of the Penal Code), “public incitement to immorality (Article 269a of the Penal Code), “shameless public acts” (Article 278 of the Penal Code) and “incitement to debauchery” (Article 14 of Law 10/1961).</p>
<p>Eritrea</p>	<p>Source: Penal Code, 1960, Section II: Sexual Deviation/Perversion Article 600: Unnatural Carnal Offences “Whosoever performs with another person of the same sex an act corresponding to the sexual act, or any other sexual act, is punishable with simple imprisonment.” [Note: According to Article 105, a term of “simple imprisonment” is one of between ten days and three years.] “(2) The provisions of Art. 597 are applicable where an infant</p>

	<p>or young person is involved.”</p> <p>Article 601 regulates serious cases. Article 601(1) imposes a term of simple imprisonment of not less than three months or, in serious cases, a term of rigorous imprisonment of no more than five years if the offender has unfairly exploited a person’s physical or mental distress or the power that he has on account of his position, his office or his capacity as a guardian, tutor, teacher, master or employer or on account of any similar relationship in order to persuade this person to commit or tolerate such an act, or if the offender has acted for gain as defined in the Penal Code (Article 90).</p> <p>Article 601(2) defines a term of rigorous imprisonment of between three and ten years as the penalty for offences in which the offender has used force, intimidation, coercion, fraud or deception, or unfairly exploited the victim’s inability to resist or defend themselves or their feeble-mindedness or unconsciousness; offences in which the offender has subjected their victim to cruel or sadistic acts, or infected them with a sexually transmitted disease if he knew that he was himself infected with it; offences in which an adult offender has committed a sexual act on a small child or young person below the age of 15; and cases in which the victim has been driven to suicide by desperation, shame or despair.</p> <p>Article 602 deals with other unnatural carnal offences, imposing a term of simple imprisonment on any person who has sexual intercourse with an animal.</p> <p>Article 603 allows for demonstrable pathological conditions, stating that none of the provisions in this section should prevent the provision of medical treatment or institution of protective measures (Articles 134 and 135) in pathological cases in which the offender is regarded by experts as partially incapable of criminal responsibility.</p>
Ethiopia	<p>Source: Ethiopian Penal Code, 2005, section on Sexual Deviations</p> <p>Article 629: Homosexual and other indecent acts “Whoever performs with another person of the same sex a homosexual act, or any other indecent act, is punishable with simple imprisonment.”</p> <p>Article 630 regulates the penalties for non-consensual homosexual acts.</p> <p>Article 631 deals with homosexual acts with minors.</p>
Fiji	No current legislation available.
Gabon	No current legislation available.
Gambia	<p>Source: Criminal Code, 1965</p> <p>Section 144: Unnatural offences</p>

	<p>“Any person who– (a) has carnal knowledge of any person against the order of nature; or (b) has carnal knowledge of an animal; or (c) permits a male person to have carnal knowledge of him or her against the order of nature; is guilty of a felony, and is liable to imprisonment for a term of 14 years.” Section 145 states that any person who attempts to commit one of the offences specified in Section 144 is guilty of a felony and is liable to imprisonment for a term of seven years. Section 146 states that any person who illegally assaults a boy below the age of 14 against the order of nature is guilty of a felony and is liable to imprisonment for a term of seven years. Section 147 states that a male person who, whether in public or private, commits an “act of gross indecency” with another male person or procures another male person to commit an act of this kind with him, or attempts to procure another male person to commit such an act with himself or another male person is guilty of a misdemeanour and liable to a term of imprisonment of up to five years.</p>
Ghana	<p>Source: Criminal Code, 1960 Article 104: Unnatural Carnal Knowledge (1) “Whoever is guilty of unnatural carnal knowledge– (a) of any person of the age of sixteen years or over without his consent shall be guilty of a first degree felony and shall be liable on conviction to imprisonment for a term of not less than five years and not more than twenty-five years; or (b) of any person of sixteen years or over with his consent is guilty of a misdemeanour; or (c) of any animal is guilty of a misdemeanour. (2) Unnatural carnal knowledge is sexual intercourse with a person in an unnatural manner or with an animal.”</p>
Grenada	<p>Source: Criminal Code Article 431: “If any two persons are guilty of unnatural connexion, or if any person is guilty of an unnatural connexion with an animal, every such person shall be liable to imprisonment for ten years.”</p>
Guinea	<p>Source: Penal Code Article 325: “Any indecent act or act against nature committed with an individual of the same sex will be punished by six months to three years of imprisonment and a fine of 100,000 to 1,000,000 Guinean francs. If the act was committed with a minor under 21 years of age, the maximum penalty must be pronounced.</p>

<p>Guyana</p>	<p>If the act was consummated or attempted with violence, the guilty person will be condemned to five to ten years of imprisonment.”</p> <p>Source: Laws of Guyana, Chapter 8:01, Criminal Law (Offences Act), Part V, Offences against Religion, Morality and Public Convenience, Title 25 – Offences against Morality</p> <p>352. Committing acts of gross indecency with male person “Any male person who, in public or private, commits, or is a party to the commission, or procures or attempts to procure the commission, by any male person, of any act of gross indecency with any other male person shall be guilty of a misdemeanour and liable to imprisonment for two years.”</p> <p>353. Attempt to commit unnatural offences “Everyone who– (a) attempts to commit buggery; or (b) assaults any person with intent to commit buggery; or (c) being a male, indecently assaults any other male person, shall be guilty of felony and liable to imprisonment for ten years.”</p> <p>354. Buggery “Everyone who commits buggery, either with a human being or with any other living creature, shall be guilty of felony and liable to imprisonment for life.”</p>
<p>India</p>	<p>Source: Penal Code, 1860</p> <p>377. Unnatural offences. “Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”</p>
<p>Iran</p>	<p>Penal Code, 1979</p> <p>Article 108: “Homosexual intercourse is sexual contact between a man and another man by means of the penetration of the member or acts similar to sexual intercourse.”</p> <p>Article 109: “The active and passive participants in homosexual intercourse shall both be punished with <i>hadd</i> penalties.” [Note: <i>hadd</i> crimes are offences for which the Qu’ran lays down absolute punishments. Strict rules of evidence apply in relation to these offences.]</p> <p>Article 110: “The <i>hadd</i> punishment for homosexuality in the form of intercourse is the death penalty. The method of execution shall be at the discretion of the religious judge.”</p> <p>Article 111: “Homosexual intercourse shall be punished with the death penalty if the active and passive offenders are of full age and of sound mind and acted freely.”</p> <p>Article 112: “If a man who is of full age and of sound mind</p>

	<p>has homosexual intercourse with a person who is not of full age, he shall be executed, and the passive party, unless he was compelled to commit the offence, shall be punished with a <i>ta'zir</i> penalty of up to 74 lashes of the whip.” [Note: <i>ta'zir</i> crimes are offences that are regarded by society as deserving punishment in accordance with the standards prevailing in a particular place at a particular time. The judge is free to decide on the admission and weighing up of evidence in respect of these crimes.]</p> <p>Article 113: “If a person who is not of full age has homosexual intercourse with another person who is not of full age, they shall be punished with a <i>ta'zir</i> penalty of up to 74 lashes of the whip unless one of them was compelled to commit the act.”</p> <p>Article 114: “The <i>hadd</i> penalty for homosexuality shall be required where the offender confesses four times before the religious judge.”</p> <p>Article 115: “A confession delivered less than four times shall not require a <i>hadd</i> penalty, but the person who has made the confession shall instead be punished with a <i>ta'zir</i> penalty.”</p> <p>Article 116: “The confession shall be relevant in law if the person who has made the confession is of full age, of sound mind and has made the confession voluntarily and intentionally.”</p> <p>Article 117: “Homosexual intercourse shall also be proven by the testimony of four righteous men who have seen it with their own eyes.”</p> <p>Article 118: “If fewer than four righteous men testify, homosexual intercourse shall not be proven and the witnesses shall be condemned for malicious accusation.”</p> <p>Article 119: “The testimony of women alone or together with that of men shall not prove homosexual intercourse.”</p> <p>Article 120: “The religious judge may deliver a ruling on the basis of his own knowledge where he has gained this through customary methods.”</p> <p>Article 121: “The <i>hadd</i> penalty for acts similar to sexual intercourse and the like between two men without the penetration of the member shall be 100 lashes of the whip for each party.”</p> <p>Article 122: “If acts similar to sexual intercourse and the like are repeated three times and if a <i>hadd</i> penalty has been imposed on each occasion, the <i>hadd</i> penalty on the fourth occasion shall be the death penalty.”</p> <p>Article 123: “If two men who are not related by consanguinity lie naked under one cover without necessity, both shall be punished with a <i>ta'zir</i> penalty of up to 99 lashes of the whip.”</p> <p>Article 124: “If a man kisses another lustfully, he shall be punished with a <i>ta'zir</i> penalty of 60 lashes of the whip.”</p> <p>Article 125: “If homosexual intercourse, acts similar to sexual intercourse and the like have been proven by the confession</p>
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Iraq	<p>of a person and subsequently repented of, the judge may apply to the ruler for a pardon.”</p> <p>Article 126: “If a person who has committed homosexual intercourse, acts similar to sexual intercourse and the like repents before the witnesses have testified, the <i>hadd</i> penalty shall be waived; however, if the person repents after the witnesses have testified, the <i>hadd</i> penalty shall not be waived.”</p> <p>Article 127: “Lesbianism is homosexual activity by women with the genitals of another woman.”</p> <p>Article 128: “The judicial means of evidence for lesbianism shall be the same as for homosexuality.”</p> <p>Article 129: “The <i>hadd</i> penalty for lesbianism shall be 100 lashes of the whip for each party.”</p> <p>Article 130: “The <i>hadd</i> penalty for lesbianism shall be imposed on a person who is of full age and of sound mind, and acted freely and deliberately.”</p> <p>Article 131: “If the offence of lesbianism is repeated three times, and if a <i>hadd</i> penalty has been imposed on each occasion, the <i>hadd</i> penalty on the fourth occasion shall be the death penalty.”</p> <p>Article 132: “If the offender repents of the act of lesbianism before the witnesses have testified, the <i>hadd</i> penalty shall be waived; however, if she repents after the witnesses have testified, the <i>hadd</i> penalty shall not be waived.”</p> <p>Article 133: “If the act of lesbianism is proven by the confession of a person who later repents of it, the religious judge may apply to the ruler for a pardon.”</p> <p>Article 134: “If two women who are not related by consanguinity lie naked under one cover without necessity, they shall be punished with a <i>ta’zir</i> penalty of less than 100 lashes of the whip. Should the offence and the <i>ta’zir</i> punishment be repeated, they shall be given 100 lashes of the whip on the third occasion.”</p> <p>Source: Penal Code</p> <p>Paragraph 394: “(1) Any person who has sexual intercourse with another female or male person with or without their consent or engages in unnatural lewd acts where this other person is 15 years of age or more but has not yet reached the age of 18 shall be sentenced to a maximum term of imprisonment or detention of seven years. If the other person has not yet reached the age of 15, the maximum penalty shall be a term of imprisonment of ten years.</p> <p>(2) Aggravating circumstances shall apply if the offence is committed in the following cases:</p> <p>(a) if the victim of the offence has not yet reached the age of 18;</p> <p>(b) if the offender is a relative of the victim to the 3rd degree or is one of his or her guardians or holds a position of</p>
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	<p>authority over them, e.g. if the victim is a servant; (c) if the offender is an official or public agent or a priest or doctor who has exploited his position, his vocation or the trust placed in him; (d) If two or more persons have acted jointly to overpower the victim for the commission of the offence or committed the offence in turn.”</p>
Jamaica	No current legislation available.
Kenya	<p>Source: Penal Code, 1962/1963/2003 162. “Any person who— (a) has carnal knowledge of any person against the order of nature; or (b) has carnal knowledge of an animal; is guilty of a felony and is liable to imprisonment for fourteen years: Provided that, in the case of an offence under paragraph (a), the offender shall be liable to imprisonment for twenty-one years if— (i) the offence was committed without the consent of the person who was carnally known; or (ii) the offence was committed with that person’s consent but the consent was obtained by force or by means of threats or intimidation of some kind, or by fear of bodily harm, or by means of false representations as to the nature of the act.” 163. “Any person who attempts to commit any of the offences specified in section 162 is guilty of a felony and is liable to imprisonment for seven years.” 165. “Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, is guilty of a felony and is liable to imprisonment for five years.”</p>
Kiribati	No current legislation available.
Kuwait	<p>Source: Penal Code Article 193. “Consensual intercourse between men of full age (from the age of 21) shall be punishable with a term of imprisonment of up to seven years. [Note: Consensual sexual acts between women of full age are not expressly dealt with by Kuwaiti criminal law.] Articles 191 and 192 (which are gender-neutral) deal with sexual acts involving force, threats or deception and sexual acts with minors below the age of 21. Life imprisonment is provided for in particularly grave cases (rapes of relatives in the direct blood line or persons who are not capable of</p>

<p>Lebanon</p> <p>Lesotho</p> <p>Libya</p>	<p>consent or understanding on account of their youth or mental illness).</p> <p>Source: Penal Code, 1943 Article 534: “Penetrative sexual acts against the order of nature” are prohibited.</p> <p>No current legislation available.</p> <p>Source: Penal Code, 1952/1969 Third Chapter: Offences against freedom, honour and morality Article 407: Sexual assault/rape “(1) Any individual who has sexual intercourse with another person using violence, by means of threats or through deception shall be punished with a term of imprisonment of a maximum of ten years. (2) This punishment shall also be imposed on any individual who has had sexual intercourse with the consent of a person who was not yet 14 years of age or with a person who did not resist on account of mental or physical disability. If the victim was not yet 14 years of age or was over 14 years of age but had not yet reached the age of 18, the maximum term of imprisonment shall be 15 years. (3) If the offender is a relative of the victim, a guardian, a tutor or a custodian, or if the victim is his servant, or if the victim has a special dependant relationship to the offender, a term of imprisonment of between five and 15 years shall be imposed. (4) If an individual has sexual intercourse with another person with their consent (outside marriage), the two persons involved shall be punished with a term of imprisonment of five years at most.” Article 408: Lewd acts “(1) Any individual who commits lewd acts with a person in accordance with one of the methods specified in the preceding article shall be punished with a period of imprisonment of five years at most. (2) This punishment shall also be imposed if the act has been committed in agreement with a person who was not yet 14 years of age or with a person who did not resist on account of a mental or physical disability. If the victim was between the ages of 14 and 18, the term of imprisonment shall be at least one year. (3) If the offender belongs to one of the groups of offenders specified in paragraphs (2) and (3) of Article 407, a term of imprisonment of at least seven years shall be imposed. (4) If an individual commits a lewd act with another person with their agreement (outside marriage), both parties shall be punished with a term of imprisonment.”</p>
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<p>Malawi</p>	<p>Source: Penal Code, 1980</p> <p>Section 153 on “Unnatural offences” states that any person who has “carnal knowledge of any person against the order of nature” or allows a male person to have carnal knowledge of him or her against the order of nature is guilty of a felony and liable to a term of imprisonment of 14 years, with or without corporal punishment.</p> <p>Section 154 deals with attempts to commit unnatural offences, stating that any person who attempts to commit an offence of the kind specified in Article 153 is guilty of a felony and liable to a term of imprisonment of seven years, with or without corporal punishment.</p> <p>Section 156 on “Indecent practices between males” states that any male person who, in public or private, commits an act of gross indecency with another male person, or procures another male person to commit an act of gross indecency with him, or attempts to procure another male person to commit an act of gross indecency with himself or another male person, in public or private, is guilty of a felony and liable to a term of imprisonment of five years, with or without corporal punishment.</p>
<p>Malaysia</p>	<p>Source: Penal Code, 1936</p> <p>377A. Carnal intercourse against the order of nature “Any person who has sexual connection with another person by the introduction of the penis into the anus or mouth of the other person is said to commit carnal intercourse against the order of nature.”</p> <p>377B. Punishment for committing carnal intercourse against the order of nature “Whoever voluntarily commits carnal intercourse against the order of nature shall be punished with imprisonment for a term which may extend to twenty years, and shall also be liable to whipping.”</p> <p>377D. Outrages on decency “Any person who, in public or private, commits, or abets the commission of, or procures or attempts to procure the commission by any person of, any act of gross indecency with another person, shall be punished with imprisonment for a term which may extend to two years.”</p> <p>Article 21 of the Minor Offence Act 1955 functions as a general provision that, among other things, punishes immoral behaviour with a fine of up to 25 Malaysian ringgit and imprisonment for up to 14 days. If the offence is repeated, the penalty increases to fines of up to 100 Malaysian ringgit and imprisonment for up to three months: In particular, Article 21 of the Minor Offence Act on drunkenness and inappropriate behaviour in public states</p>

	<p>that any person who is guilty of indecent behaviour or repeated begging or molestation for immoral reasons on the open street or in a public place, public place of leisure or public park, or in the immediate environs of a courthouse, public office, police station or place of worship can be sentenced to either a fine of no more than 25 ringgit or a term of imprisonment of no more than 14 days. If the offender is being sentenced for the second or third time, the penalty is a fine of no more than 100 ringgit or a term of imprisonment of three months or both.</p> <p>Islamic Sharia law: Alongside Malaysia's criminal legislation, Muslims are also subject to Islamic Sharia law. Sharia law has been adopted in the individual federal states and territories so that minor deviations can be found in the penalties foreseen for homosexual acts. In the Kuala Lumpur federal territory, for example, the Syariah Criminal Offences (Federal Territories) Act 1977 punishes homosexual acts with fines of up to 5,000 Malaysian ringgit, terms of imprisonment of up to three years and up to six lashes of the cane.</p> <p>Article 25 regulates <i>liwat</i> (sexual relations between male persons), stating that any male person who commits <i>liwat</i> is guilty of an offence and is liable to a fine of no more than 5,000 ringgit or a term of imprisonment of no more than three years, or to no more than six lashes of the whip, or a combination of these penalties.</p> <p>Transsexual men are forbidden from the "immoral" wearing of female clothing, for which the penalty is a fine of up to 1,000 ringgit and a term of imprisonment of up to one year. According to Article 28 on male persons who pose as women, any male person who wears women's clothing in public and poses as a woman for immoral reasons is guilty of an offence and is liable to a fine of up to 1,000 ringgit or a term of imprisonment of up to one year or both.</p> <p>Furthermore, there is a general provision that punishes immoral behaviour contrary to Islamic law with a fine of up to 1,000 ringgit and a term of imprisonment of up to six months. Article 29 on indecent acts in public states that any person who acts or behaves in an indecent manner contrary to Islamic law is guilty of an offence and is liable to a fine of up to 1,000 ringgit or a term of imprisonment of up to six months or both.</p>
Maldives	No current legislation available.
Mauritania	<p>Source: Penal Code, 1983 Part II, Chapter 1, Section IV Article 308: "Any adult Muslim who commits an unchaste or unnatural act with a member of his or her own sex shall be</p>

<p>Mauritius</p>	<p>punished with death by public stoning. In the case of two women, the punishment shall be oriented towards the first paragraph of Article 306.” Article 306(1): “Any person who has committed a public contempt of chastity and Islamic morals or defiled holy places or contributed to their defilement shall be punished with a term of imprisonment of between three months and two years and a fine of [converted] between 16 and 18 euros, provided that the misdemeanour that has been committed is not a crime that requires <i>ghissas</i> or <i>diyās</i>.” [Note: <i>ghissas</i> and <i>diyās</i> are private compensation payments that, among other things, are intended to satisfy demands for revenge/reparations.]</p> <p>Source: Criminal Code, 1838 Section 250. “1. Any person who is guilty of the crime of sodomy or bestiality shall be liable to penal servitude for a term not exceeding 5 years.” Section 250(2) states that, without prejudice to Articles 151 and 152 of the Criminal Procedure Act, the accused may be sentenced to a term of imprisonment of not less than 2 years if the homosexual intercourse has been committed with a minor or a physically or mentally disabled person.</p>
<p>Morocco</p>	<p>Source: Penal Code (Code pénal), 1962 Article 489: “Any person who commits lewd or unnatural acts with an individual of the same sex shall be punished with a term of imprisonment of between six months and three years and a fine of 120 to 1,000 dirhams, unless the facts of the case constitute aggravating circumstances.” Article 490 prohibits any kind of extramarital sexual intercourse.</p>
<p>Myanmar</p>	<p>Source: Penal Code Section 377: Unnatural offences “Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animals shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to 10 years, and shall be liable to fine.” The word “man” denotes a male human being of any age; the word “woman” denotes a female human being of any age (Section 10). The word “animal” denotes any living creature, other than a human being (Section 47).</p>
<p>Namibia</p>	<p>No current legislation available.</p>
<p>Nauru</p>	<p>No current legislation available.</p>

Nepal	<p>Source: Country Code, 1963/2001 Article 16: Rape of animals/sodomy “(1) No person should have sexual intercourse with four-legged animals or perform, or cause to be performed, any other unnatural sexual act. (2) If a person has sexual intercourse with a cow, he shall be punished with a term of imprisonment of two years, and if a person has sexual intercourse with another four-legged animal other than a cow, he shall be punished with a term of imprisonment of six months. (3) If a woman causes a four-legged animal to perform a sexual act with her, she shall be punished with a term of imprisonment of one year or must pay a fine of 500 rupees. (4) Any person who performs, or causes (permits) to be performed, an unnatural sexual act, shall be punished with a term of imprisonment of one year or a fine of 5,000 rupees. (5) The offence shall become statute-barred in one year if no complaint is submitted.”</p>
Nicaragua	<p>Penal Code Article 204: "Any person who induces, promotes, propagandizes or practices in a scandalous manner sexual intercourse between persons of the same sex commits the crime of sodomy. The punishment shall be a term of imprisonment of between one and three years. If one of the parties has disciplinary authority or powers of command over the other party, whether as a relative in the ascending line, guardian, teacher, superior or supervisor, or if there is any kind of relationship of power or dependency, the punishment for illegal seductions shall be applied to this person as the party solely responsible, even if the act was committed as part of a private relationship.”</p>
Niger	<p>Source: Penal Code, 1961/2003 Volume II. On crimes, offences and their punishment Title II: Offences against the person Chapter VIII: Offences against morals/propriety Section I: Causing a public nuisance - lewd acts or acts “against good morals” between adults – in public places Such acts may be punished with terms of imprisonment of between three months and three years and fines of between 10,000 and 100,000 FCFA. Article 275: “A public nuisance is caused by any material act that is contrary to good morals committed in a situation in which it has been witnessed or may have been witnessed by a third party likely to be offended by it.” Article 276: “Any person who causes a public nuisance shall be punished with a term of imprisonment of between three months and three years and a fine of between 10,000 and 100,000 francs.”</p>

<p>Nigeria</p>	<p>Section II: Offences against (public) decency Article 277: “Any lewd act committed directly on a person of either sex shall constitute a crime against (public) decency.” Article 278. “Any offence against (public) decency that is committed and any attempt to commit such an offence without force on the person of a child under thirteen years of age of either sex shall be punished with a term of imprisonment of between two months and ten years and a fine of between 20,000 and 200,000 francs.” Article 279. “Any offence against (public) decency that has been committed by a juvenile against a minor aged between thirteen and twenty one who has not been declared to have come of age as a result of marriage shall be punished with the same penalties as have been specified in the preceding article.” Section III. Lewd acts on minors of the same sex Article 282: “Any person who has committed a lewd or unnatural act on a minor under the age of 21 of the same sex shall be punished with a term of imprisonment of between six months and three years and a fine of between 10,000 and 100,000 francs.” Section VIII: Procuring and incitement to debauchery Consensual homosexual acts between adults – for payment – may also be prosecuted under the category of “prostitution/procuring”. In this respect, it is, in formal terms, not the individuals who commit sexual acts for a fee who are prosecuted under criminal law, but those who profit financially or materially from such acts.</p> <p>Source: Criminal Code Act, 1960 Cap C 38, Chapter 21 214. Unnatural offences “Any person who– (1) has carnal knowledge of any person against the order of nature; or (2) has carnal knowledge of an animal; or (3) permits a male person to have carnal knowledge of him or her against the order of nature; is guilty of a felony, and is liable to imprisonment for fourteen years.” 215. Attempt to commit unnatural offences “Any person who attempts to commit any of the offences defined in the last preceding section is guilty of a felony, and is liable to imprisonment for seven years.” 217. Indecent practices between males “Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with</p>
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	<p>another male person, whether in public or private, is guilty of a felony, and is liable to imprisonment for three years.”</p> <p>Source: Penal Code (Northern Territories) Section 200 states that any person who molests others by committing any obscene or indecent act in public is liable to a term of imprisonment of up to two years, a fine or both. Section 284 states that any person who has sexual intercourse against the order of nature with a man, woman or animal is liable to a term of imprisonment of up to 14 years and may also receive a fine.</p> <p>Source: Zamfara Shari’ah Penal Code Law, 2000 130. Sodomy (<i>liwat</i>) defined “Whoever has carnal intercourse against the order of nature with any man or woman is said to commit the offence of sodomy: Provided that whoever is compelled by the use of force or threats or without his consent to commit the act of sodomy upon the person of another or be the subject of the act of sodomy, [they] shall not be deemed to have committed the offence.” 131. Punishment for Sodomy “Whoever commits the offence of sodomy shall be punished:- (a) with caning of one hundred lashes if unmarried, and shall also be liable to imprisonment for the term of one year; or (b) if married with stoning to death (<i>rajm</i>).” 134. Lesbianism (<i>sihaq</i>) defined “Whoever being a woman engages another woman in carnal intercourse through her sexual organ or by means of stimulation or sexual excitement of one another has committed the offence of Lesbianism.” 135. Punishment for Lesbianism “Whoever commits the offence of lesbianism shall be punished with caning which may extend to fifty lashes and in addition be sentenced to a term of imprisonment which may extend to six months.”</p>
Oman	<p>Source: Penal Code, 1974 Article 223: “Any individual who commits sexual acts with a person of the same sex shall be prosecuted, even if no complaint is made, for committing homosexual or lesbian acts if the act causes a public nuisance and shall be punished with a term of imprisonment of between six months and three years.”</p>
Pakistan	<p>Source: Penal Code, 1860 Section 377: Unnatural offences “Whoever voluntarily has carnal intercourse against the order</p>

	<p>of nature with any man, woman or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which shall not be less than two years nor more than ten years, and shall also be liable to a fine.”</p>
Palestine	<p>The provisions under criminal law applicable in the Gaza Strip are based on Egyptian legislation (see relevant section). Jordanese law, under which homosexuality is not prohibited, applies on the West Bank.</p>
Panama	<p>Source: Ordinance No. 149, 1949 Article 12: “Concealed prostitution, procuring, homosexuality [...] shall be punished with the penalties listed below: [...] c) for homosexuality: three months to one year of imprisonment or a fine of 50.00 to 500.00 USD.”</p>
Papua New Guinea	<p>Source: Criminal Code, 1974/1993 210. Unnatural offences “(1) A person who— (a) has carnal knowledge of any person against the order of nature; or (b) (...) (c) permits a male person to have carnal knowledge of him or her against the order of nature, is guilty of a crime. Penalty: Imprisonment for a term not exceeding 14 years. (2) A person who attempts to commit an offence against Subsection (1) is guilty of a crime. Penalty: Imprisonment for a term not exceeding seven years.” 212 Indecent practices between males “(1) A male person who, whether in public or private— (a) commits an act of gross indecency with another male person; or (b) procures another male person to commit an act of gross indecency with him; or (c) attempts to procure the commission of any such act by a male person with himself or with another male person, is guilty of a misdemeanour. Penalty: Imprisonment for a term not exceeding three years.”</p>
Qatar	<p>There are no provisions in Qatari criminal law that exclusively regulate the offence of homosexuality. Homosexuality falls under the provision that provides for a penalty of up to five years imprisonment in cases of “unnatural sexual acts”.</p>
Samoa	<p>No current legislation available.</p>
Saudi Arabia	<p>The punishability of homosexual acts is derived from the</p>

	<p>Sharia, which applies directly in Saudi Arabia as state law (cf. Sura 7:80/81). The sura in question describes sexual intercourse between men as a misdemeanour, but does not specify a punishment. The penalty to be imposed is therefore a matter of dispute. Some regard lashes with the cane as the appropriate sanction. Others advocate the death penalty, citing the call supposedly made by the Prophet for “both men to be killed.” However, homosexuality is not listed in the Sharia as one of the crimes deserving of death – murder, adultery, apostasy, highway robbery.</p>
<p>Senegal</p>	<p>Source: Penal Code (Code pénal senegalais), Law no. 66-16, 1966</p> <p>Article 319: “Any person who commits a lewd or unnatural act (<i>acte impudique ou contre nature</i>) with a person of the same sex shall be punished with a term of imprisonment of up to five years. Furthermore, a fine of between approx. €150 and €2,280 shall be imposed. If the act was committed with a partner aged 21 or younger, the maximum penalty shall always be applied. The penalty shall be imposed not on a person who is homosexual, but only on a person who actually commits corresponding acts.”</p>
<p>Seychelles</p>	<p>Source: Criminal Code, 1955</p> <p>151. “Any person who –</p> <p>(a) has carnal knowledge of any person against the order of nature; or</p> <p>(b) has carnal knowledge of an animal; or</p> <p>(c) permits a male person to have carnal knowledge of him or her against the order of nature,</p> <p>is guilty of a felony, and is liable to imprisonment for fourteen years.”</p>
<p>Singapore</p>	<p>Source: Penal Act, 1871</p> <p>377. “Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animals, shall be punished with imprisonment for life, or with imprisonment for a term which may extend to 10 years, and shall also be liable to fine.”</p> <p>377A. “Any male person who, in public or private, commits, or abets the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be punished with imprisonment for a term which may extend to 2 years.”</p> <p>[Note: In November 2006, the government of Singapore announced its intention to repeal Article 377, which also criminalises anal and oral intercourse in heterosexual relationships. However, Article 377A, which is specifically directed against homosexual relationships, is to remain in place unchanged.]</p>

<p>Solomon Islands</p>	<p>Source: Laws of the Solomon Islands, Penal Code, Chapter 26</p> <p>160. Unnatural Offences “Any person who– (a) commits buggery with another person or with an animal; or (b) permits a male person to commit buggery with him or her, shall be guilty of a felony, and shall be liable to imprisonment for fourteen years.”</p> <p>161. Attempts to commit unnatural offences “Any person who attempts to commit any of the offences specified in the last preceding section, or who is guilty of any assault with intent to commit the same, or any indecent assault upon any male person shall be guilty of a felony, and shall be liable to imprisonment for seven years.”</p> <p>162. Indecent practices between persons of the same sex “Any person who, whether in public or private– (a) commits any act of gross indecency with another of the same sex; (b) procures another of the same sex to commit any act of gross indecency; or (c) attempts to procure the commission of any act of gross indecency by persons of the same sex, shall be guilty of a felony and be liable to imprisonment for five years.”</p>
<p>Somalia</p>	<p>No current legislation available.</p>
<p>Sri Lanka</p>	<p>Source: Penal Code</p> <p>Section 365A (“Acts of gross indecency between persons”) criminalises any act of gross indecency committed by a person in public or private. The penalty ranges from a fine to two years of imprisonment. If the offence is committed by an adult (over 18 years of age) with a minor (under 16 years of age), the penalty ranges from not less than ten years to no more than 20 years of imprisonment with a fine and a compensation payment for the injuries caused to the minor.</p> <p>Section 365 (“Unnatural offences”) criminalises “voluntary carnal intercourse” against the order of nature with men, women or animals. The penalty ranges from a fine to ten years of imprisonment.</p>
<p>St. Kitts and Nevis</p>	<p>Source: The Revised Laws of St. Christopher Nevis and Aguilla, 1964, Offences against the Person Act</p> <p>Section 56: “The abominable crime of buggery” is punishable with up to ten years imprisonment, with or without hard labour.</p> <p>Section 57: “Whosoever attempts to commit the said abominable crime, or is guilty of any assault with intent to commit the same, or of any indecent assault upon any male</p>

<p>St. Lucia</p>	<p>person, is guilty of a misdemeanour, and being convicted thereof shall be liable to be imprisoned for any term not exceeding four (4) years with or without hard labour.”</p> <p>Source: Criminal Code, 2004, No. 9, Sub-Part C – Sexual Offences</p> <p>132. Gross indecency “(1) Any person who commits an act of gross indecency with another person commits an offence and is liable on conviction on indictment to imprisonment for ten years or on summary conviction to five years. (2) Subsection (1) does not apply to an act of gross indecency committed in private between an adult male person and an adult female person, both of whom consent.”</p> <p>133. Buggery “(1) A person who commits buggery commits an offence and is liable on conviction on indictment to imprisonment for – (a) life, if committed with force and without the consent of the other person; (b) ten years, in any other case. (2) Any person who attempts to commit buggery, or commits an assault with intent to commit buggery, commits an offence and is liable to imprisonment for five years. (3) In this section “buggery” means sexual intercourse per anus by a male person with another male person.”</p>
<p>St. Vincent and the Grenadines</p>	<p>Source: Criminal Code, 1990</p> <p>Section 146 Any person who “commits buggery with any other person” and any person who “commits buggery” with him or her is “liable to imprisonment for ten years”.</p> <p>Section 148 “Any person, who in public or private, commits an act of gross indecency with another person of the same sex, or procures or attempts to procure another person of the same sex to commit an act of gross indecency with him or her, is guilty of an offence and liable to imprisonment for five years.”</p>
<p>Sudan</p>	<p>Source: Penal Code, Article 148(1): Alongside consensual homosexual acts, anal intercourse between heterosexuals is also punishable. On the first and second occasions on which the “offence” is committed, the perpetrator may be punished with 100 lashes of the whip and a prison sentence of up to five years. As of the third occasion on which the offence is committed, the death penalty or, alternatively, life imprisonment may be imposed.</p>
<p>Swaziland</p>	<p>Source: Case law Sodomy, defined as an unnatural offence, is consent to</p>

	unlawful, premeditated sexual relations between two male persons per anum.
Syria	Source: Penal Code, 1949 Article 520. "Any unnatural sexual intercourse shall be punished with a term of imprisonment of up to three years."
Tanzania	Source: Penal Code, 2002 154. Unnatural offences "(1) Any person who- (a) has carnal knowledge of any person against the order of nature; or (b) has carnal knowledge of an animal; or (c) permits a male person to have carnal knowledge of him or her against the order of nature commits an offence and is liable to imprisonment for life and in any case to imprisonment for a term of not less than thirty years. (2) Where the offence under subsection (1) of this section is committed to a child under the age of ten years the offender shall be sentenced to life imprisonment." 157. Indecent practices between males "Any male person who, in public or private, commits any act of gross indecency with another male, or procures another male person to commit any act of gross indecency with him, or attempts to procure a male to commit an indecent act to him" is guilty of an offence and may be sentenced to five years of imprisonment.
Togo	Source: Penal Code Article 88. "Any person who commits lewd or unnatural acts with an individual of the same sex shall be punished with a term of imprisonment of between one and three years and a fine of between 100,000 and 500,000 francs."
Tonga	No current legislation available.
Trinidad and Tobago	Source: Sexual Offences Act, No. 27, modified 2000 Section 13. "Buggery": Buggery committed by an adult on another adult is punishable with 25 years imprisonment Section 16. "Serious indecency": Sexual acts other than sexual intercourse (including sexual acts between women) are punishable with imprisonment for ten years for a first offence and imprisonment for fifteen years for a subsequent offence.
Tunisia	Source: Penal Code, 1914 Article 230 "Where it does not fall within the provisions of the preceding articles, sodomy shall be punished with a term of

Turkmenistan	<p>imprisonment of three years.”</p> <p>Source: Penal Code, 1998, Chapter 18: Crimes against morality</p> <p>Section 135: Homosexual acts</p> <p>“(1) Homosexual acts, i.e. sexual intercourse between men, shall be punished with a term of imprisonment of up to two years.</p> <p>(2) Homosexual acts involving physical force, the threat of force and the exploitation of the victim’s need for assistance shall be punished with a term of imprisonment of between three and six years.</p> <p>(3) The offence that is specified in subsection (2) of this Section, where:</p> <p>(a) it is committed more than once;</p> <p>(b) it is committed by three or more persons without collusion or by several persons in collusion;</p> <p>(c) it is committed consciously against a minor;</p> <p>(d) it has infected the victim with a sexual disease;</p> <p>shall be punished with a term of imprisonment of between five and ten years.</p> <p>(4) The offence that is specified in subsections (2) and (3) of this Section, where:</p> <p>(a) it has been committed consciously against a person who has not yet reached the age of 14;</p> <p>(b) it has, due to negligence, caused the death of the victim, caused severe damage to their health or infected them with AIDS;</p> <p>shall be punished with a term of imprisonment of between ten and 20 years.”</p> <p>Section 136. Gratification of sexual drive in unnatural form</p> <p>“(1) The gratification of the sexual drive in an unnatural form involving physical force, the threat of force and the exploitation of the victim’s need for help shall be punishable with a term of imprisonment of between two and six years.</p> <p>(2) The same offence, where:</p> <p>(a) it is committed more than once</p> <p>(b) it is committed by three or more persons without collusion and by several persons in collusion;</p> <p>(c) it has caused severe consequences;</p> <p>shall be punished with a term of imprisonment of between three and eight years.</p> <p>(3) The offence that is specified in subsections 1 and 2 of this Section, where it has been committed against a minor, shall be punished with a term of imprisonment of between five and ten years.”</p> <p>Section 137. Coercion to engage in sexual relations</p> <p>“The coercion of a person to engage in sexual relations, homosexual acts or other acts of a sexual nature by means of blackmail, threats to destroy assets or the exploitation of a</p>
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	<p>material or other dependency shall be punished with a term of correctional labour of up to two years or a term of imprisonment of up to two years.”</p>
<p>Tuvalu</p>	<p>No current legislation available.</p>
<p>Uganda</p>	<p>Source: Penal Code Act, 1950 Section 145 (140): Unnatural offences “Any person who— (a) has carnal knowledge of any person against the order of nature; (b) has carnal knowledge of an animal; or (c) permits a male person to have carnal knowledge of him or her against the order of nature, commits an offence and is liable to imprisonment for life.” Section 146 (141): Attempt to commit unnatural offences “Any person who attempts to commit any of the offences specified in section 145 commits a felony and is liable to imprisonment for seven years.” Section 148 (143): Indecent practices “Any person who, whether in public or in private, commits any act of gross indecency with another person or procures another person to commit any act of gross indecency with him or her or attempts to procure the commission of any such act by any person with himself or herself or with another person, whether in public or in private, commits an offence and is liable to imprisonment for seven years.” Section 160: Common nuisance “(1) Any person who does an act not authorised by law or omits to discharge a legal duty and thereby causes any common injury, or danger or annoyance, or obstructs or causes inconvenience to the public in the exercise of common rights, commits the misdemeanour termed a common nuisance and is liable to imprisonment for one year. (2) It is immaterial that the act or omission complained of is convenient to a larger number of the public than it inconveniences, but the fact that it facilitates the lawful exercise of their rights by a part of the public may show that it is not a nuisance to any of the public.” Sexual relations between women are so far explicitly not mentioned in the Penal Code Act.</p>
<p>United Arab Emirates</p>	<p>Source: Federal Penal Code, 1988 Article 354: “Irrespective of the provisions of the Act on Delinquent and Vagrant Juveniles, any person who forcibly engages in sexual intercourse with a woman, or a homosexual act with a homosexual, shall be punished with the death penalty. Coercion shall be recognised if the condemned person was fourteen years of age at the time of the commission of the offence.”</p>

<p>Uzbekistan</p>	<p>Article 355: “The attempted commission of the offences specified in the preceding article shall be punishable with life imprisonment.” [Note: “life imprisonment” = prison sentences of 15 years or more.]</p> <p>Article 356: “Irrespective of the two preceding articles, the offence of fettering shall be punished with a term of imprisonment of no less than one year, if it was committed with consent; however, if the act was committed to the disadvantage of a male or female person less than fourteen years of age, or if its commission involved the use of force, the punishment shall be temporary imprisonment.” [Note: “temporary imprisonment” = prison sentences of between three and 15 years.]</p> <p>Article 357: “If one of the offences specified in the preceding articles causes the death of the victim, the offence specified shall be punished with the death penalty.”</p> <p>Penal Code, 1995</p> <p>Article 120: “Homosexual acts, which are defined as the gratification of a man’s sexual drive with another man without the use of force, shall be punishable with a term of imprisonment of up to three years.”</p> <p>Article 128: Sexual acts by an adult with a minor “Any person who has sexual intercourse or gratifies their sexual needs in an unnatural form with a person whom the guilty party knows to be below the age of 16 shall be punished with a term of correctional labour of up to two years or a term of detention of up to six months, or a term of imprisonment of up to three years. The same offences shall be punished with a term of imprisonment of between three and five years if</p> <ul style="list-style-type: none"> - they have been committed repeatedly or by a recidivist; - they have been committed by a person who has previously committed offences under Article 118 or Article 119 of the Uzbek Penal Code.” <p>Article 129: Lewd acts with a person under the age of 16 “Any person who commits lewd acts, even without using force, on a person who has not yet reached the age of 16 shall be punished with a term of correctional labour of up to two years or a term of detention of six months. If the offence that has been committed involved the use of force or threats, it shall be punished with a term of correctional labour of between two and three years or a term of imprisonment of up to five years.”</p> <p>Article 130: Production or dissemination of pornographic articles “The production of pornographic articles for the purposes of their presentation and dissemination and the actual</p>
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<p>Yemen</p>	<p>presentation and dissemination of pornographic articles to persons who have not yet reached the age of 21 shall, following (the previous imposition of) an administrative penalty for the same offence, be punished with a fine of between 100 and 200 minimum monthly wages or a term of corrective labour of up to three years.” [There are no provisions that criminalise sexual acts between women.]</p> <p>Source: Penal Code, 1994 264: “Homosexuality between men is defined as penetration into the anus. Unmarried men shall be punished with 100 lashes of the whip or a maximum of one year of imprisonment, married men with death by stoning.” 268: “Homosexuality between women is defined as sexual stimulation by rubbing. The penalty for premeditated commission shall be up to three years of imprisonment; where the offence has been committed under duress, the perpetrator shall be punishable with up to seven years detention.”</p>
<p>Zambia</p>	<p>Source: Penal Code Act, 1933 155. Unnatural offences “Any person who— (a) has carnal knowledge of any person against the order of nature; or (...) (c) permits a male person to have carnal knowledge of him or her against the order of nature; is guilty of a felony and is liable to imprisonment for fourteen years.” 156. Attempt to commit unnatural offences “Any person who attempts to commit any of the offences specified in the last preceding section is guilty of a felony and is liable to imprisonment for seven years.” 158. Indecent practices between males “Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, is guilty of a felony and is liable to imprisonment for five years.”</p>
<p>Zimbabwe</p>	<p>Source: Criminal Law, 2006 “Any male person who, with the consent of another male person, knowingly performs with that other person anal sexual intercourse, or any act involving physical contact other than anal sexual intercourse that would be regarded by a reasonable person to be an indecent act, shall be guilty of</p>

	sodomy and liable to a fine up to or exceeding level fourteen or imprisonment for a period not exceeding one year or both.”
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Annex 2: Differences in the age of consent for homosexual and heterosexual acts

Country	Provisions on the age of consent for homosexual and heterosexual acts
Chile	Unequal treatment with regard to the age of consent for heterosexual and homosexual acts: while all homosexual acts with minors under the age of 18 are punishable, only heterosexual acts in which minors under the age of 12 are involved are punished. The offence of “rape of a minor” applies up to the age of 18, regardless of whether the act in question is heterosexual or homosexual in nature.
Ecuador	Unequal criminal provisions for heterosexuals and homosexuals with regard to the sexual abuse of direct descendants. As a matter of principle, the punishments instituted for the various specific offences apply where heterosexual abuse of direct descendants has taken place, in each case increased by four years. For abuse without threats or violence towards the victim, this therefore results in the imposition of a penalty of between four and nine years (where the victim is below the age of 14) and between seven and ten years if the victim is below the age of 12. However, a penalty of between eight and 12 years imprisonment applies generally to homosexual acts with direct descendants, irrespective of the nature of the offence.
Greece	Since 1987, the absolute age of consent in Greece has been the same for heterosexuals and homosexuals at 15 years. There are, however, differing age thresholds in the case of the offence of sexual seduction by a partner who is older than 18: the threshold is 17 years for homosexual acts, while heterosexual acts are allowed with 16 year olds.
Madagascar	Unequal treatment with regard to the age of consent for heterosexual and homosexual acts: homosexual acts with minors under the age of 21 are punished with a term of imprisonment of between two and five years and a fine of between 10 million and 100 million francs; while heterosexual acts with persons over 14 and under 21 years of age are only subject to punishment (between five and ten years of imprisonment and a fine of between 10 million and 50 million francs) if they are committed by blood relatives in the ascending line.
Niger	Homosexual acts with minors may be punished with terms of imprisonment of between six months and three years and fines. There is no corresponding provision for heterosexual acts.

Paraguay	Unequal treatment with regard to the age of consent for heterosexual and homosexual acts: an age of consent of 14 years applies for heterosexual acts with children, while the age of consent for homosexual acts is 16 years.
Portugal	Differing provisions with regard to the definition of offences involving heterosexual and homosexual acts committed by adults with minors aged 14-16 years.
South Africa	The age of consent for heterosexual intercourse is 16 years, while the age of consent for homosexual intercourse is 19 years.
Zimbabwe	The ages of consent for heterosexual acts are 16 years for women and 18 years for men. There are no provisions on the age of consent for homosexual acts.

Annex 3: Distinctions between offences involving heterosexual and homosexual acts

Country	Distinctions between offences involving heterosexual and homosexual acts
Albania	The Albanian Penal Code sets a more severe penalty for the rape of a woman by a man than for the rape of a man by a man.
Ethiopia	There are different penalties for sexual acts on or with minors: in the case of heterosexual acts in which the man is of full age, the penalty is between three and 15 years of imprisonment. If the woman is of full age, the prison sentence may not exceed seven years. In the case of homosexual acts, the penalty is between 13 and 18 years for men, whilst for women it is no more than ten years.
Kuwait	The criminal provisions on heterosexual acts are considerably more extensive because they also encompass offences such as incest, adultery and extramarital sexual intercourse; at the same time, the potential sanctions for heterosexual acts are also harsher (including the death penalty).
Morocco	Homosexual acts with or on minors are taken into consideration as aggravating circumstances.
Oman	The provisions on homosexual acts may be regarded as special cases among the provisions contained in the Penal Code that deal generally with sexual offences. As far as offences defined in similar ways are concerned, the legal consequences for homosexual acts are more serious.