

2020

International  
Comparison of  
LGBT Laws

# Introduction

Laws affecting LGBT people vary greatly by country or jurisdiction. There are now 28 jurisdictions that accept same sex marriage, however gay sex remains illegal in many jurisdictions with the death penalty still applying in 14.

The International Academy of Family Lawyers (“IAFL”) supports all efforts towards full equality of the LGBT community throughout the world and the end to rules that unfairly discriminate against such individuals and, in many countries, criminalize countless couples because of the ones they love. There remains a lot of work to be done.

The work done by some fellows of the IAFL is having a real impact and changing for the better the lives of LGBT people. The LGBT Committee of the IAFL commissioned this survey to capitalize on the knowledge and expertise of some members for the benefit of the IAFL as a whole and the LGBT community.

The individual submissions in this survey are the work of fellows of the IAFL who have kindly donated their time and expertise to answer the same questions as set out below. Each of the contributor’s names and contact details are included.

The LGBT Committee intends that this should be a living resource. We are asking those who have already kindly donated their time to keep us informed as laws change in their jurisdictions. We have detailed submissions from 46 jurisdictions, however, there remains a good number of jurisdictions not covered where the IAFL has fellows. If your jurisdiction is not covered and you feel able to complete a survey please do get in touch with any member of the LGBT Committee, the details of whom are set out below.

IAFL LGBT Committee members:

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# Survey Questions

1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?
2. If so, what are the penalties?
3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.
4. If you have any further comments on the matters raised in this section, please add them below.
5. Is it possible for a same sex couple to marry in your jurisdiction?
6. If so, are there any differences between opposite sex and same sex marriages?
7. Does your jurisdiction recognize foreign marriages of same sex couples?
8. Is there a civil union type scheme for same sex couples in your jurisdiction?
9. If so, is this available to opposite sex couples?
10. What are the significant differences (if any) from marriage?
11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?
12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?
13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.
14. If you have any further comments on the matters raised in this section, please add them below.
15. Is it possible for a same sex couple to adopt a child in your jurisdiction?
16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?
17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?
18. Can a sole homosexual person adopt in your jurisdiction?
19. Is surrogacy legal in your jurisdiction?
20. If so, can a same sex couple gain parentage for a child through surrogacy?
21. Is gamete and/or embryo donation legal in your jurisdiction?
22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?

## Survey Questions (cont'd)

23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?
24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?
25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.
26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.
27. If you have any further comments on the matters raised in this section, please add them below.
28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.
29. What financial claims can be made on separation or divorce for a same sex couple?
30. Do these claims differ in any way from those available to an opposite sex couple?
31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?
32. Can financial claims be made on dissolution of the civil union?
33. If so, what financial claims can be made?
34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?
35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?
36. If so, what claims can be made?
37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.
38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?
39. If so, how?
40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?
41. If so, how do they differ?
42. If you have any further comments on the matters raised in this section, please add them below.

## Survey Questions (cont'd)

43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?
44. If so, in what respect?
45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?
46. If so, in what respect?
47. If you have any further comments on the matters raised in this section, please add them below.
48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?
49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.
50. If you have any further comments on the matters raised in this section, please add them below.
51. Is it possible for a person to change their gender legally in your jurisdiction?
52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?
53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?
54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?
55. What happens to the status of the marriage/civil partnership when one party transitions?
56. Is changing gender a ground for divorce in your jurisdiction?
57. Does changing gender affect the divorce process in any way? If so, briefly explain how.
58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?
59. If you answered yes to the previous question, please explain how this discrimination can take place.
60. If you have any further comments on the matters raised in this section, please add them below.

## JURISDICTION

## Austria

Valid Date	10/6/20
Contributor Name	Dr. Alfred Kriegler
Contributor Email	kriegler@divorce.at
Contributor Firm	Rechtsanwaltskanzlei Dr. Alfred Kriegler

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

No

**4. If you have any further comments on the matters raised in this section, please add them below.**

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**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes

**6. If so, are there any differences between opposite sex and same sex marriages?**

No.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

There was, but now "partnership" and marriage are open for everyone.

**9. If so, is this available to opposite sex couples?**

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Yes.

**10. What are the significant differences (if any) from marriage?**

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No relevant ones, only wording; a little less obligation to fidelity and less obligation in some cases for maintenance. Partnership doesn't make sense anymore, but it is a left over for political reasons.

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

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No, as for all couples in Austria.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

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NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

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No maintenance, no division of assets, no law of succession.

**14. If you have any further comments on the matters raised in this section, please add them below.**

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NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

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Yes

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

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No

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

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There are no specific rules for same sex couples.

**18. Can a sole homosexual person adopt in your jurisdiction?**

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There is no case law yet.

**19. Is surrogacy legal in your jurisdiction?**

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No.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

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NA

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

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No.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

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NA

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

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No.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

No.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

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If she gave consent to the IVF.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

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No.

**27. If you have any further comments on the matters raised in this section, please add them below.**

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NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

No.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

As for heterosexual couples, maintenance, division assets.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

The process is very similar to marriage.

**32. Can financial claims be made on dissolution of the civil union?**

Yes.

**33. If so, what financial claims can be made?**

Maintenance, division of assets.

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

No.

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

Yes.

**36. If so, what claims can be made?**

An example: e.g.: dissolution of a Gesellschaft bürgerlichen Gerichtes (civil company), condictio causa data non secuta.

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

No.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

Yes.

**39. If so how?**

Only in two aspects: fathership has to be established, while the fathership of a husband is presumed; only custody of the husband is presumed ex lege.

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

As per 39 above.

**41. If so, how do they differ?**

As per 39 above.

**42. If you have any further comments on the matters raised in this section, please add them below.**

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

No.

**44. If so, in what respect??**

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

No.

**46. If so, in what respect??**

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

There are sanctions against discrimination.

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

For children under 14 years old parents have to give a declaration. Between the age of 14 and 18 years the child has to give a declaration and the parents have to consent to the change in the register. The Family Court can decide if the parents' dissent.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

Change of the sex in the register and change of the first name.

No need for 50 hours of psychotherapy.

To prove a dysphoria or transsexualism a process of three diagnostics are necessary: psychiatric, clinical psychological and psychotherapeutic.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

Nothing ex lege.

**56. Is changing gender a ground for divorce in your jurisdiction?**

It may be.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

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No.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

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Implied yes.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

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Art 8 and 14 European convention on human rights.

**60. If you have any further comments on the matters raised in this section, please add them below.**

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The Constitutional Court ruled that there is a third sex: "diverse"!

## JURISDICTION

## England &amp; Wales

Valid Date	1/5/20
Contributor Name	David Allison
Contributor Email	dna@flip.co.uk
Contributor Firm	Family Law in Partnership Ltd

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

No

**4. If you have any further comments on the matters raised in this section, please add them below.**

If a criminal offence is proved against an individual and that person was motivated by hostility towards another person's sexual orientation (or a number of other characteristics) the court must increase the sentence it would have otherwise imposed – s.146 Criminal Justice Act 2003.

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes

**6. If so, are there any differences between opposite sex and same sex marriages?**

Yes. S.2 Marriage (Same Sex Couples) Act 2013 exempts religious bodies from conducting same-sex marriages. It also amends the Equality Act 2010 (which prevents discrimination on the basis of sexual orientation) to effectively allow religious bodies to discriminate.

There is no requirement to consummate a same sex marriage (unlike and opposite sex marriage) and therefore the marriage cannot be nullified on this basis.

Prior to the Supreme Court decision on Walker (Appellant) v Innospec Limited and others (Respondents) [2017] UKSC 47 there was a further anomaly in respect of pension rights. Pension schemes were required only to provide give spouses benefits (for same sex couples) in respect of contributions made since 5 December 2005 when the UK Civil Partnership Act 2004 was implemented. The Supreme Court held that this was a breach of EU law and the section of the Equality Act 2010 that allowed it must be disapplied.

## **7. Does your jurisdiction recognize foreign marriages of same sex couples?**

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Yes

## **8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

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Yes

## **9. If so, is this available to opposite sex couples?**

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Yes, following the Supreme Court decision in the Steinfeld and Keidan case in June 2018 which ruled that allowing civil partnerships only to same-sex couples was discriminatory, the UK government enacted The Civil Partnership (Opposite-sex Couples) Regulations 2019. These regulations allowed opposite sex civil partnerships from 31 December 2019.

## **10. What are the significant differences (if any) from marriage?**

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The Civil Partnership Act 2004 introduced civil partnerships for same sex couples only. It was intended to provide something akin to marriage for same sex couples. As such much of it is copied from equivalent marriage legislation. The main differences are that:

- there is no provision for religious registration. This is different from same sex marriage because religious bodies can opt in to perform same sex marriages whereas civil partnership cannot be conducted by a religious body even if they wish to do it;
- the signing of the civil partnership document registers the partners whereas a marriage certificate is only evidence of the marriage;
- there are no prescribed form of words; and
- there is no corresponding offence of bigamy (although one cannot register as a civil partner if married or already in a civil partnership and it is an offence to give false information on the notice).

## **11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

No. The English court does not recognise de facto or common-law relationships in most circumstances. This is despite various attempts to introduce legislation and various recommendations for reform including from the Law Commission. There are no financial claims that exist on the breakdown of a de facto or common law relationship that arise solely as a consequence of the relationship. Claims may be made on behalf of children and/or in relation to a particular asset (such as a home) where the claimant can establish an interest under a constructive or resulting trust. This is a significant problem - the latest British Social Attitudes survey found that more than half of those interviewed believed that they would acquire rights as common law spouses. Cohabitants do have certain rights on the death of their partner under S.1 (1A) Inheritance (Provision for Family and Dependents) Act 1975. Cohabitants are also recognised as a couple for claiming state benefit.

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

Differences are vast. Civil Partnership is akin to marriage. De facto or common-law relationships are not recognised in most circumstances – see answer to question 16.

**14. If you have any further comments on the matters raised in this section, please add them below.**

In answer to question 11 I confirmed that English law does recognise foreign same sex marriages. S.10 of the Marriage (same sex couples) Act 2013 provides that an overseas marriage is not prevented from being recognised simply because it is the marriage of a same sex couple. That is not to say that it will be recognised. Rules of private international law require the couple to have capacity to marry under the law of their domicile/nationality. Arguably therefore the English court should not recognise an overseas marriage if either of the couple has a domicile/nationality of a country that does not recognise same sex marriage. There is of yet no reported court decision directly on this point.

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

Yes

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

No. The Adoption and Children Act 2002 which came into force in 2005 allows gay couples to adopt. In 2018/2019 adoptions by same sex couples accounted for 12% of all adoptions in England.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

No.

**18. Can a sole homosexual person adopt in your jurisdiction?**

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Yes.

**19. Is surrogacy legal in your jurisdiction?**

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Yes.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

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Yes.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

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Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

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There is no parental relationship between a donor of gamete and/or embryo and a child born following donation. S.33 Human Fertilisation and Embryology Act 2008 defines the mother as: The woman who is carrying or has carried a child as a result of the placing in her of an embryo or of sperm. S.35 & 36 provides that where a woman who undergoes artificial insemination is married to a man the husband is the father unless it is shown he did not consent. Where the woman is unmarried another man may be regarded as the father provided the agreed fatherhood conditions are met. Broadly this requires the man's consent. No other man can be regarded as the father. S.42 and 43 make equivalent provisions for same sex female couples that provide for the non birth mother to be the other parent.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

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Yes.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

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Yes.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

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Yes. Under section 42 Human Fertilisation and Embryology Act 2008 the wife is assumed to be the other parent unless it is demonstrated that she did not consent.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

If the same sex female couple are in a civil partnership they are in the same position as if they are married. If the same sex female partners are not married or in a civil partnership, section 43 Human Fertilisation and Embryology Act 2008 provides that the non birth mother will be the other parent if the agreed female parenthood conditions are met. Broadly these require the other woman's consent to be the other parent.

**27. If you have any further comments on the matters raised in this section, please add them below.**

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

There are no differences between same sex and opposite sex divorce. Adultery can only be relied upon as a basis for divorce if it is with a person of the opposite sex. Such activity with a person of the same sex may though be relied upon as behaviour.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

Financial claims on a same sex divorce are the same as for an opposite sex divorce. Sections 23 & 24 Matrimonial Causes Act provides for: i) Periodical payments (maintenance); ii) Lump sum(s); iii) Transfer of property; iv) Sale of property and v) Pension sharing or attachment.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

Civil partnership dissolution is akin to divorce. Some of the terminology is different, for example there is a conditional order and final order as opposed to decree nisi and decree absolute. The process is though the same.

**32. Can financial claims be made on dissolution of the civil union?**

Yes.

**33. If so, what financial claims can be made?**

The financial claims that can be made on dissolution of a civil partnership are the same as those that can be made on divorce. Schedule 5, Part 1 of the Act sets out equivalent claims to sections 23 & 24 Matrimonial Cases Act 1973 that sets out the claims that may be made on divorce – see answer to question 33.

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

No.

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

No.

**36. If so, what claims can be made?**

NA.

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

As indicated in answer to question 16 there are no financial claims that exist on the breakdown of a de facto or common law relationship that arise solely as a consequence of the relationship. Claims may be made on behalf of any children and/or in relation to a particular asset (such as a home) where the claimant can establish an interest under a constructive or resulting trust.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

No.

**39. If so how?**

NA.

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

Yes.

**41. If so, how do they differ?**

Although in most circumstances parental rights of unmarried parents are the same as for married parents there are some minor differences. Fathers who are married to the mother of their child automatically have parental responsibility (the English law term for all parental rights and responsibilities). Un-married fathers only acquire parental responsibility if they are named on the birth certificate. Otherwise they can acquire parental responsibility later through a parental responsibility agreement or order. They would also acquire parental responsibility if the court made a child arrangements order that stated that the child 'live with' the father. A later marriage to the mother would also result in the father acquiring parental responsibility.

Similarly the non birth mother of a lesbian married couple will have parental responsibility for a child born to the other mother. If they are not married the non birth mother will be a legal parent if the agreed female parenthood conditions are met – see answer to question 30. She still must be named on the birth certificate to acquire parental responsibility in the same way as an un-married father. A un-married lesbian partner who is not a legal parent can acquire parental responsibility later by marrying the birth mother and then entering into a parental responsibility agreement with the birth mother. She would also acquire parental responsibility through a child arrangements order that included a 'live with' order in her favour.

**42. If you have any further comments on the matters raised in this section, please add them below.**

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**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

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No

**44. If so, in what respect??**

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Although same sex and opposite sex couples are treated the same there is a significant difference between couples who are married or in a civil partnership and those in a common law/de facto relationship. Where a deceased person has not made a will their spouse or civil partner will inherit automatically under the intestacy rules. A cohabitant has no automatic entitlement. Spouses and civil partners also stand in a better position than cohabitants in making claims against the estate of the deceased under the Inheritance (Provision for Family and Dependents) Act 1976.

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

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No

**46. If so, in what respect??**

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Although same sex and opposite sex couples are treated the same there is a significant difference between couples who are married or in a civil partnership and those in a common law/de facto relationship.

Property that is transferred between spouses and civil partners passes free from Capital Gains Tax whereas similar transfers between cohabitants do not benefit from that exemption. Similarly gifts passing on death (whether by Will or intestacy) to a spouse or civil partner pass free from Inheritance Tax whereas similar transfers between cohabitants do not benefit from that exemption.

Married couples and civil partners also benefit from the Married Couple's Allowance that reduces their income tax burden.

**47. If you have any further comments on the matters raised in this section, please add them below.**

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**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

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Yes

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

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The Equality Act 2010 makes discrimination based on certain characteristics unlawful. S.4 provides: The following characteristics are protected characteristics:

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation

The act provides for civil remedies against a person or body that discriminates against a person based on the above characteristics.

A difference in treatment may be lawful if:

- belonging to a particular sexual orientation is essential for a job. This is called an occupational requirement. For example, an employer wants to recruit an advice worker who has experience of coming out for a young person's LGBT helpline. The employer can specify that applicants must be lesbian or gay
- an organisation is taking positive action to encourage or develop gay, lesbian or bisexual people to participate in a role or activity
- the treatment by an employer or organisation falls within one of the exceptions that permits people to be treated differently based on their sexual orientation. For example, a charity can provide a benefit only to lesbians and gay men in certain circumstances
- a religious or belief organisation is excluding persons of a particular sexual orientation from its membership or participation in its activities, or its provision of goods, facilities and services. This only applies to organisations whose purpose is to practice, promote or teach a religion or belief, whose sole or main purpose is not commercial. The restrictions they impose must be necessary either to comply with the doctrine of the organisation, or to avoid conflict with the 'strongly held religious convictions' of the religion's followers.

**50. If you have any further comments on the matters raised in this section, please add them below.**

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**51. Is it possible for a person to change their gender legally in your jurisdiction?**

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Yes

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

---

18

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

---

S.2 (1) S.2 (1) Gender Recognition Act 2004 provides that on an application for a gender recognition certificate the Gender Recognition Panel must grant the application if satisfied that the applicant:

- (a) has or has had gender dysphoria,
- (b) has lived in the acquired gender throughout the period of two years ending with the date on which the application is made,
- (c) intends to continue to live in the acquired gender until death, and
- (d) complies with the requirements imposed by and under section 3.

The s.3 requirements are for a report from a doctor or registered psychologist practising in the field of gender dysphoria and a statutory declaration from the applicant that he or she has lived in the acquired gender for at least 2 years. On 3 July 2018 the government published a consultation on reform of the Gender Recognition Act 2004. The results of that consultation (as at May 2020) are not yet published. There is a general recognition that the requirements for a gender recognition certificate are too onerous and intrusive and the requirement for a diagnosis of gender dysphoria is demeaning and paints the identity of the applicant as a mental health issue.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

---

Yes

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

---

Provided the spouse consents the couple remain married. Otherwise the marriage must be annulled before a full gender recognition certificate can be issued.

**56. Is changing gender a ground for divorce in your jurisdiction?**

---

No

## 57. Does changing gender affect the divorce process in any way? If so, briefly explain how.

A full gender recognition certificate can only be issued to a married person if the spouse agrees. If the couple subsequently divorce the process is the same. The court will require evidence of the change of gender before a petition can be issued.

If the spouse does not consent, then the Gender Recognition Panel will award an 'interim' Gender Recognition Certificate to the trans applicant, provided the other conditions (a diagnosis of gender dysphoria and so on) are met. The interim certificate can be used by the applicant or their spouse as grounds to annul the marriage. Once the marriage is ended then a full Gender Recognition Certificate will be issued. The interim certificate has no legal significance beyond enabling the marriage to be annulled and does not constitute legal recognition of an acquired gender.

## 58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?

Yes

## 59. If you answered yes to the previous question, please explain how this discrimination can take place.

The Equality Act 2010 says that you must not be discriminated against because you are transsexual, when your gender identity is different from the gender assigned to you when you were born.

In the Equality Act it is known as gender reassignment. All transsexual people share the common characteristic of gender reassignment.

To be protected from gender reassignment discrimination, you do not need to have undergone any specific treatment or surgery to change from your birth sex to your preferred gender. This is because changing your physiological or other gender attributes is a personal process rather than a medical one.

You can be at any stage in the transition process – from proposing to reassign your gender, to undergoing a process to reassign your gender, or having completed it.

The Equality Act says that you must not be discriminated against because:

- of your gender reassignment as a transsexual. A wide range of people are included in the terms 'trans' or 'transgender' but you are not protected as transgender unless you propose to change your gender or have done so.
- someone thinks you are transsexual, for example because you occasionally cross-dress or are gender variant (this is known as discrimination by perception)
- you are connected to a transsexual person, or someone wrongly thought to be transsexual (this is known as discrimination by association)

Intersex people (the term used to describe a variety of conditions in which a person is born with a reproductive or sexual anatomy that doesn't fit the typical definitions of female or male) are not explicitly protected from discrimination by the Equality Act.

## 60. If you have any further comments on the matters raised in this section, please add them below.

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## JURISDICTION

## France

Valid Date	9/25/18
Contributor Name	Charlotte Butruille-Cardew
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Contributor Firm	CBBC AVOCATS

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**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**


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No

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**2. If so, what are the penalties?**


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NA

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**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**


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No, the last articles of the French Criminal code related to homosexuals were abolished in 1982.

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**4. If you have any further comments on the matters raised in this section, please add them below.**


---

Being homosexual or engaging in homosexual sex is no longer illegal since October 6th 1791.

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**5. Is it possible for a same sex couple to marry in your jurisdiction?**


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Yes.

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**6. If so, are there any differences between opposite sex and same sex marriages?**


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No.

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**7. Does your jurisdiction recognize foreign marriages of same sex couples?**


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Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

---

Yes.

**9. If so, is this available to opposite sex couples?**

---

Yes.

**10. What are the significant differences (if any) from marriage?**

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Marriage offers a better protection to the spouses in case of dissolution (by separation or death) whereas PACS allows more flexibility in the management of assets. Moreover, a civil partnership does not change the civil status of its partners.

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

None.

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

De facto relationship or cohabitation relationships do not involve any of the legal consequences of marriage. For instance:

- No duty of fidelity
- No contribution to the expenses of the marriage, except for natural obligations to participate in the household expenses involved in a couple's life
- No marriage bonds
- No household solidarity
- No matrimonial system

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

Since May 17th 2013, it is possible for same sex couples to marry.

### 15. Is it possible for a same sex couple to adopt a child in your jurisdiction?

---

Yes.

### 16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?

---

No, same sex couples can adopt a child on the same terms as opposite sex couples. The constitutional court confirmed this position with a decision issued on May 17th, 2013. On behalf of the principle of equality, it considered that the gender identity of adopters did not in itself constitute an obstacle to the establishment of an adoptive parent-child relationship.

### 17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?

---

Yes, according to article 343 of the Civil code, they need to be married for at least 2 years in order to proceed with a conjugal adoption, as well as being aged 28 or above, and being at least 15 years older than the adopted person (same conditions as opposite sex couples).

### 18. Can a sole homosexual person adopt in your jurisdiction?

---

Yes. In case of individual adoption by a single person, the adopter does not have to be married, but he/she must be 18 years old or more and there must be an age difference of 15 years between the adopter and the adopted person. It should be noted that if the adopter is married, the consent to adoption of his/her spouse is needed, even though it is an individual adoption. In case of individual adoption of the spouse's child, the adopter must be married and have the consent of the spouse/ the child's parent, along with a 10 years age difference or more between the adopter and the adopted person.

### 19. Is surrogacy legal in your jurisdiction?

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No, article 16-7 of the Civil code explicitly prohibits it.

### 20. If so, can a same sex couple gain parentage for a child through surrogacy?

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Although surrogacy is illegal, case law has dealt with its legal consequences under French law. It has been decided that, if one member of the couple is the biological father of the child, and if the transcription of the birth certificate into the civil register is not false, he can be recognized as the father of this child (Cass. Ass. Pl. July 3<sup>rd</sup>, 2015). In addition, the other member of the couple, as a parent of intent, can adopt the child, following the criteria applicable to a simple adoption of the spouse's child (Civ. 1<sup>st</sup>, July 5, 2017). In order to understand perfectly: in France, with regard to the adopted children, a distinction is made between full and simple adoption. In the latter case, it is the child's original family who may be obliged to provide maintenance, while in the case of full adoption it is the adoptive parents who may have the obligation. The Court of Appeal of Paris, on September 19<sup>th</sup>, 2018, has recognized the filiation by full adoption of the husband of the biological father of children born to a GPA abroad.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

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Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

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Since the gamete or embryos donors remain anonymous, future parents do not know the identity of the donor or vice versa. As a result, there is no filiation/parental relationship between the donor and the child.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

Yes.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

Yes.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

The mother's wife does not automatically acquire parental responsibility for the child. She can gain it by adopting her wife's child, according to the following criteria:

- The couple is married (regardless of how long they have been married for)
- The mother consents to the adoption of her child by her wife
- There is an age difference of at least 10 years between the adopter and the adopted person

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

Yes. If so, the woman who gives birth to the child will be considered as his/her only parent. Her partner will not be vested with parental responsibility over the child.

**27. If you have any further comments on the matters raised in this section, please add them below.**

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If the child is born following a donation of sperm from a known donor: - The woman who gives birth to the child will automatically be considered as the mother. - The sperm donor will be able to recognize the child. - The wife of the mother will be authorized to adopt the child according to the criteria for the adoption of the spouse's child, only if the biological father gives his consent. In this case, the adoption will probably be in a simple form, allowing the child's father to also maintain parentage.

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

None.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

Several financial claims can be made on divorce, for both same sex couples and opposite sex couples: - Since divorce can trigger differences between the spouses' respective standard of living, a spouse whose financial situation has worsen as a consequence of the divorce is entitled to a compensatory benefit. - Furthermore, if the couple has children, the law requires that each parent contributes to the children's upbringing and education in proportion to his or her resources and the children's needs. Thus, the Family Court judge will set the amount for child's support. - Divorce also leads to the winding-up of the matrimonial regime.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

The partners can end their civil union by mutual consent. They must then submit or send a joint declaration to the local civil register (a clerk at the court or a civil officer at the town hall) or to the notary who registered it. Only one of the partners can decide to dissolve the PACS. He must then notify the dissolution to the other via a bailiff. A copy of this service shall be given or sent to the Register of the local civil register or to the notary who registered it. The civil union can also be dissolved by marriage of both partners or only one of the partners. At last, the civil union can be dissolved by the death of one of the partners.

**32. Can financial claims be made on dissolution of the civil union?**

Yes.

**33. If so, what financial claims can be made?**

Each partner takes back his personal property and belongings. Undivided assets are shared between the partners. Unlike the spouses, a Judge is not appointed, and it is the partners themselves who wind-up their rights and obligations (C. Civ., S. 515-7, para. 10). It is only in the absence of agreement of the partners on the liquidation of their rights and obligations that a judge determines the patrimonial consequences of their separation. In the event of the dissolution of the PACS, one of the partners may seize the competent judge in order to be granted the right to the lease of the premises, where the two partners lived. The other partner may ask for compensation for this right. The landlord may be called to the procedure. The judge appreciates this claim in consideration of the parties' social and family interests (C. Civ., S. 1751-1).

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

No.

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

Yes.

**36. If so, what claims can be made?**

Theoretically, each partner retains personal ownership of his/her property. However, concubines have common pecuniary interests. In this case, they may ask that the judge to wind-up their pecuniary interests (that they are obliged to combine). Case law accepts that there is in fact a “partnership” between concubines, that must be liquidated. It must then be proved that the conditions of article 1832 of the Civil code, defining the “de facto created company”, are fulfilled, i.e. the existence of contributions, the willingness to associate and the intention to participate in the resulting profits and losses (Com. June 30, 1970). Concubines can also claim unjust enrichment. This claim allows the aggrieved concubine to seek compensation for his/her impoverishment when he/she by his/her work or assets has participated to the enrichment of the other concubine (Civ. 1st, Dec. 8, 1987). Every concubine has the right to take back their sole property.

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

No.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

No.

**39. If so how?**

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

No.

**41. If so, how do they differ?**

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

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NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

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No.

**44. If so, in what respect??**

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NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

---

No.

**46. If so, in what respect??**

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NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

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NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

---

No.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

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NA

**50. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

---

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

---

It is possible for adults (above 18 years old) or emancipated minors.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

---

According to the article 61-5 of the Civil code, a person can ask for the recognition of a “new gender” when the judge considers that numerous facts are combined, and when the gender mentioned in civil status records does not correspond to the public gender of the person. There is no psychiatric or medical investigation required anymore. Article 61-6 of the Civil code specifies that “Failure to undergo medical treatment, surgery or sterilization shall not be grounds for refusal to grant the application”.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

---

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

---

According to article 61-8 of the Civil code, “A change in the reference to sex in civil status records shall not affect obligations towards third parties or filiations established before that change”. Moreover, as a sex difference is no longer required for marriage (since the law of May 17, 2013), a person who undergoes a sexual conversion operation may be married to a person of his/her original sex, whether or not he/she has changed his/her civil status.

**56. Is changing gender a ground for divorce in your jurisdiction?**

---

No.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

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No.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

No.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

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NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

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NA

## JURISDICTION

## Germany

Valid Date	01/05/20
Contributor Name	Ramona Raba
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Contributor Firm	Kanzlei Dr. Kreidler-Pleus & Kollegen

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

No.

**4. If you have any further comments on the matters raised in this section, please add them below.**

Since 1994, sexual acts between persons of male sex are legal. Previously under the Nazis it was punishable by imprisonment. In 1968, as a result of social change, punishment for men over 21 was abolished.

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

If a child is born during a marriage, the husband will automatically be considered as the father. However, if a child is born in a lesbian marriage (sperm donation) the other spouse will not automatically be recognized as mother.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

---

No.

**9. If so, is this available to opposite sex couples?**

---

NA

**10. What are the significant differences (if any) from marriage?**

---

NA

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

Yes.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

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Theoretically no, but we do not have case law on this matter.

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

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Just the marriage has formal character and is regulated precisely by law in terms of maintenance, inheritance, tax and social law.

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

On October 1st, 2017 there was a change of law in Germany. Since then, there are no more differences - except the one above (see question number 6) - in opposite sex or same sex marriages. Before, same sex partners could register their partnerships; partners of opposite sex were not open to this opportunity

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

The right to a common adoption for homosexual marriage is given. We do not know if there are hurdles.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

Yes.

**18. Can a sole homosexual person adopt in your jurisdiction?**

Yes.

**19. Is surrogacy legal in your jurisdiction?**

No.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

NA

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

Gamete donation is not legal. Embryo donation is legal, but only in the case of a non-commercial mediation of the donation.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

The child has the right to know who the father is. But there won't be a determination of paternity, so for example maintenance claims are excluded.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

No.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

No.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

See above (question 6), the wife has to adopt the child.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

No.

**27. If you have any further comments on the matters raised in this section, please add them below.**

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

There are no differences.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

The same as in marriages between opposite gender marriages: spousal maintenance, equalization of accrued gains and so on.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

The separation of a non-marital partnership is not a subject to legal relations and conditions. The dissolution can be pursued by each of the partners immediately and at any time.

**32. Can financial claims be made on dissolution of the civil union?**

No.

**33. If so, what financial claims can be made?**

Except the partners have maintenance claims by a separate contract.

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

No.

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

No.

**36. If so, what claims can be made?**

If it is a recognized foreign common law marriage then the same marital consequences occur. Not for a couple who only live together.

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

No.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

Yes.

**39. If so how?**

The paternity must be recognized and the mother must agree. A declaration for joint custody must be made otherwise the mother has the sole care. The parents can decide on the name, if not it will be the name of the mother.

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

Yes.

**41. If so, how do they differ?**

Married parents automatically have joint care and share parental custody. The surname of the child will be the married name.

**42. If you have any further comments on the matters raised in this section, please add them below.**

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

No.

**44. If so, in what respect??**

---

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

---

No.

**46. If so, in what respect??**

---

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

---

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

---

Germany is bound by the prohibition of discrimination of the European Convention on Human Rights. In addition, there are also national regulations that aim the equal treatment of employees and prohibit treating people differently without a legal justification.

**50. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

---

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

---

Surgical gender change: 18 (in exceptional cases also from the age of 16); for the previous hormone treatment: 14.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

A so called "small solution" makes it possible to change the first name without the need for surgical gender adjusting interventions. The so called "big solution" on the other hand leads to recognition of the perceived sex in terms of the personal status with the result that all rights and obligations of the person depend on the new gender. Before the sex change a therapist must know the patient for at least 1 ½ years. The patient needs to complete an everyday test to show that he/she has tested the new gender role and the hormone treatment has been taking place since 6 months. The process also requires psychological assessments.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

The marriage status is unaffected by gender change.

**56. Is changing gender a ground for divorce in your jurisdiction?**

There is no formal ground like that.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

The gender change can show a disruption between the spouses which is a condition for the divorce.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

Yes.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

The gender equal treatment law (AGG) not only protects sexual orientation but also the sex in general, which applies to transgender.

**60. If you have any further comments on the matters raised in this section, please add them below.**

NA

## JURISDICTION

## Greece

Valid Date	01/06/20
Contributor Name	Konstantinos Stavropoulos
Contributor Email	k.stavropoulos@cslawfirm.gr
Contributor Firm	Constandinidou-Stavropoulos-Stavropoulou Law Firm

---

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

---

**2. If so, what are the penalties?**

NA

---

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

No.

---

**4. If you have any further comments on the matters raised in this section, please add them below.**

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**5. Is it possible for a same sex couple to marry in your jurisdiction?**

No.

---

**6. If so, are there any differences between opposite sex and same sex marriages?**

NA

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**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

No.

---

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

Yes (it is called cohabitation agreement) since 2015.

**9. If so, is this available to opposite sex couples?**

---

Yes.

**10. What are the significant differences (if any) from marriage?**

---

The dissolution of a cohabitation agreement is easier than that of a marriage. Cohabiting couples have the same succession rights as married couples in the case of death. However, when concluding the cohabitation agreement, either party can abdicate from his/her right to a forced portion consisting of one half of the intestate portion.

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

No. informal cohabitation involving persons of the same or different gender without a cohabitation agreement is not subject to any particular legal provision.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

NA

**14. If you have any further comments on the matters raised in this section, please add them below.**

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**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

No. Adoption is not open to same sex partners. Adoption by two individuals, is only permitted if they are married, and, under Greek law, same-sex marriage is not permitted.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

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NA

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

NA

**18. Can a sole homosexual person adopt in your jurisdiction?**

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Yes. A single person may adopt.

**19. Is surrogacy legal in your jurisdiction?**

---

Yes.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

No. Pursuant to Greek law, only married couples, opposite sex partners and single unmarried women can have access to surrogacy.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

Donors of genetic material, although biologically connected to the child, have no legal link to the child. Donors are anonymous.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

NA

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

NA

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

NA

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

NA

**27. If you have any further comments on the matters raised in this section, please add them below.**

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**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

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NA

**29. What financial claims can be made on separation or divorce for a same sex couple?**

---

NA

**30. Do these claims differ in any way from those available to an opposite sex couple?**

---

NA

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

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A cohabitation agreement can be dissolved in the following ways:

- By an agreement concluded in person by the cohabitants before a notary public.
- Where one cohabitant wishes to terminate the relationship, by a unilateral declaration before a notary public, on the condition that: an invitation for consensual dissolution of the cohabitation agreement has been served on the other cohabitant; and a period of at least three months has elapsed from the date of service.
- By law, where the cohabiting partners get married. However, this would only apply to an opposite sex couple's cohabitation, as marriage between same sex couples is not permitted under Greek law.

**32. Can financial claims be made on dissolution of the civil union?**

---

Yes.

**33. If so, what financial claims can be made?**

---

The financial claims that can be made on dissolution of a cohabitation agreement are the same as those that can be made in divorce: maintenance and claim for the participation to the acquisitions (division of property).

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

No.

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

No.

**36. If so, what claims can be made?**

NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

No.

**39. If so how?**

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

Yes.

**41. If so, how do they differ?**

In cases where the father has acknowledged paternity of a child born out of wedlock or outside a registered partnership (cohabitation agreement), the exercise of parental care is awarded only to the mother. The father shall exercise parental care if there is an agreement between the parents or if the mother is not in the position to exercise it or by virtue of a court decision. Although the father cannot exercise parental care, he maintains certain rights such as the right to information relating to the child or the right to personal contact with the child.

**42. If you have any further comments on the matters raised in this section, please add them below.**

--

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

No provided they have signed a cohabitation agreement.

**44. If so, in what respect??**

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NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

---

No provided they have signed a cohabitation agreement.

**46. If so, in what respect??**

---

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

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**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

---

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

---

Law 4443/2016 prohibits discrimination in employment on the basis of sexual orientation, gender identity and sex characteristics. Law 4285/2014 criminalises hate speech and violence based on sexual orientation and gender identity.

**50. If you have any further comments on the matters raised in this section, please add them below.**

---

--

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

---

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

---

17 provided the persons exercising the parental care give their consent. Underaged children between 15 and 17 can also legally change their gender provided they have obtained a certificate from a medical council as well.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

A court order is required. Psychiatric or other medical investigation is not required (with the exception of persons between 15 and 17, see question 52).

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

A person wishing to legally change their gender shall not be married.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

NA.

**56. Is changing gender a ground for divorce in your jurisdiction?**

For a person to legally change their gender, he/she shall not be married. So a married person wishing to legally change their gender must get a divorce first.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

See question 56 above.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

Yes.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

Law 4285/2014 criminalises hate speech and violence based on sexual orientation and gender identity.

Law 4443/2016 prohibits discrimination in employment on the basis of sexual orientation, gender identity and sex characteristics.

**60. If you have any further comments on the matters raised in this section, please add them below.**

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## JURISDICTION

## Ireland

Valid Date	10/11/18
Contributor Name	Jennifer O'Brien
Contributor Email	jenniferobrien@iflc.ie
Contributor Firm	Jennifer O'Brien Solicitors, Irish Family Law Chambers

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

Not any more.

**4. If you have any further comments on the matters raised in this section, please add them below.**

Lack of regulation for assisted human reproduction and surrogacy could result in unequal treatment of homosexual parents, or differences in treatment.

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

Civil ceremony is the same in both cases.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

---

Yes.

**9. If so, is this available to opposite sex couples?**

---

NA

**10. What are the significant differences (if any) from marriage?**

---

Very few substantive differences albeit non- consummation is not a ground for nullity in civil partnership matters; grounds for dissolution of civil partnership less onerous than grounds for seeking a decree of divorce or a decree of Judicial Separation;

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

Yes.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

No differences both are covered by the 2010 Act where applicable in respect of 'qualified cohabitants'; both can use Equity proceedings & Conveyancing Act proceedings as required; both can apply separately for child maintenance and orders relating to children;

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

Extensive financial relief available on the breakdown of marriage and/or civil partnership; Scheme for cohabitants seeks to redress only and does not provide such an extensive list of relief for cohabitants; also not every cohabitant will qualify for relief under the Act, which can result in harsh outcomes. Cohabitants can opt out of the scheme by signing a cohabitants agreement. Status of pre-nuptial agreements uncertain in this jurisdiction.

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

Clearly there are formalities involved in entering into a marriage or a civil partnership, which do not exist in the cohabitation context and many individuals are not aware that their legal position has changed depending on the length of time for which they have resided with their partner and whether they have children. A person becomes a cohabitant where he or she is one of 2 adults (whether of the same sex or opposite sex) who live together as a couple in an intimate and committed relationship and who are not related to each other within the prohibited degrees ...or married to each other or civil partners of each other. The Court has regard to a number of circumstances set out at Section 172 of the 2010 Act; a qualified cohabitant means an adult who was in a relationship of cohabitation with another adult and who, immediately before the time that that relationship ended, whether through death or

otherwise, was living with the other adult as a couple for a period of 2 years or more where they are the parents of one or more dependent children (this definition likely to exclude one of the homosexual parents), and 5 years or more, in any other case. We need to update the law on parenthood and children for homosexual families whether in the marital or non-marital context.

#### **15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

#### **16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

Married same sex couples can adopt jointly; unmarried same sex couples - one can adopt; unmarried same sex couples can foster jointly;

#### **17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

Yes.

#### **18. Can a sole homosexual person adopt in your jurisdiction?**

---

Yes.

#### **19. Is surrogacy legal in your jurisdiction?**

---

No.

#### **20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

No.

#### **21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

Yes.

#### **22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

Consent forms are signed; the mother is still considered to be the person who gives birth; there are no statutory provisions in place to deal with assisted human reproduction or surrogacy; legislation drafted but not yet implemented.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

Yes.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

Yes.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

The concept of second female parent or second male parent is not yet part of the law of Ireland

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

The same difficulties arise in same sex non-marital relationships due to the lack of regulation in Ireland for assisted human reproduction and/ or surrogacy

**27. If you have any further comments on the matters raised in this section, please add them below.**

While Ireland has made great progress with same sex marriage we need to ensure that the law also provides for the children in these families and that we bring forward regulation for assisted human reproduction and surrogacy so as to ensure that family life is protected for same sex couples, whether married, in civil partnerships or in non-marital relationships

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

No differences.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

Same claims - maintenance, lump sum, property orders, pension orders, financial compensation orders, Succession Act rights etc.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

On application to the Court

**32. Can financial claims be made on dissolution of the civil union?**

Yes.

**33. If so, what financial claims can be made?**

Similar to divorce or separation - see above

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

Yes.

**36. If so, what claims can be made?**

Property adjustment orders, compensatory maintenance, pension adjustment orders

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

No difference.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

Yes.

**39. If so how?**

Broader relief available to the Court in the marital context

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

Yes.

**41. If so, how do they differ?**

Unmarried fathers are not guardians at birth of the child; where they cohabit with the mother for 12 consecutive months including 3 months with the child they will become automatic guardians; mother can appoint father as guardian by declaration; Court can appoint father as guardian if in the best interests of the child; married parents both have joint custody and joint guardianship as of birth.

**42. If you have any further comments on the matters raised in this section, please add them below.**

The above has an impact on child abduction matters and the 2015 Act has caused uncertainty with regard to the existence of parental rights in non-marital cases

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

No.

**44. If so, in what respect??**

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

No.

**46. If so, in what respect??**

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

Where applicable a case can be brought on this issue either in context of Judicial Review or other proceedings

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

18 (16 years with exemption order)

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

Application to the court; No medical evidence required under the Gender Recognition Act 2015

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

No change.

**56. Is changing gender a ground for divorce in your jurisdiction?**

No.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

No - albeit it would clearly fundamentally change the basis of a relationship and may form part of the ground of no normal marital relationship, for the particular couple

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

Yes.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

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NA

## JURISDICTION

## Italy

Valid Date	09/13/18
Contributor Name	Manuela Tirini
Contributor Email	manuela@tirinigrassi.it
Contributor Firm	Studio Legale Avv. Manuela Tirini

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

NA

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

No.

**6. If so, are there any differences between opposite sex and same sex marriages?**

Yes.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

Yes.

**9. If so, is this available to opposite sex couples?**

---

No.

**10. What are the significant differences (if any) from marriage?**

---

One of the most important differences between civil unions and marriage is that civil unions aren't recognized as a family, because no reference is made to article 29 of the Italian Constitution. Contrary to marriage in civil unions there are no publications of the ceremony, so this is celebrated differently. Civil unions don't include the possibility of adoption or stepchild adoption. In civil unions there is no separation (every part can be file for divorce immediately).

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

Yes.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

No.

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

De facto relationship is a couple formed by two adult people permanently united by emotional bond and mutual moral and material assistance, regardless of gender. De facto couples must submit a registration request to the registry office (unlike Both in marriage and in civil unions we have the automatic unions of goods (unless we ask for separation), instead in de facto relationship to settle the patrimonial relationships the couple must sign a cohabitation contract. De facto couples can't adopt children, but they are able to stepchild adoption (civil unions couples can't).

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

No.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

NA

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

No.

**18. Can a sole homosexual person adopt in your jurisdiction?**

No.

**19. Is surrogacy legal in your jurisdiction?**

No.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

No.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

NA

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

No, In Italy gamete and embryo donation is legal only for couples of different sexes.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

No, In Italy gamete and embryo donation is legal only for couples of different sexes.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

NA

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

NA

**27. If you have any further comments on the matters raised in this section, please add them below.**

In Italian jurisdiction the anonymity of the donor is necessary. However the child has the right to be able to go back to his origins. If donors accept to reveal their identity, the children born with heterologous will know it when they are 25.

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

NA

**29. What financial claims can be made on separation or divorce for a same sex couple?**

NA

**30. Do these claims differ in any way from those available to an opposite sex couple?**

NA

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

For the same sex couples the relationship may be dissolved only with divorce (there isn't separation before the divorce), and it may be directly requested from one of the parties.

**32. Can financial claims be made on dissolution of the civil union?**

Yes.

**33. If so, what financial claims can be made?**

The same that can be done in the case of divorce of a married couple (excluding those concerning children)

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

No.

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

Yes.

**36. If so, what claims can be made?**


---

One of the cohabitants may ask to the other to provide food aid if he is in need. The term will be proportional to the period of cohabitation

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**


---

No.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**


---

No.

**39. If so how?**


---

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**


---

No.

**41. If so, how do they differ?**


---

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**


---

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**


---

Yes.

**44. If so, in what respect??**


---

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**


---

No.

**46. If so, in what respect??**

---

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

---

No.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

---

NA

**50. If you have any further comments on the matters raised in this section, please add them below.**

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NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

---

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

---

18

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

---

It is necessary to file an application to the Court of residence to obtain the modification of personal data; it will be necessary to show the medical records of the health structure where the reconversion was carried out. At the end of the investigation, the Court ratifies the successful conversion and orders the civil registry officer to make the necessary corrections to the birth certificate (the variations result only in the integral birth act, all other certificates show only the new personal data). To obtain this authorization, a person must file an application to the Court of residence, who can appoint an expert who conducts a sense of investigations (psychological investigations are necessary).

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

---

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

---

Changed from marriage to civil union

**56. Is changing gender a ground for divorce in your jurisdiction?**

---

Yes.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

---

No.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

NA

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

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NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

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NA

## JURISDICTION

## Luxembourg

Valid Date	01/07/2020
Contributor Name	Deidre Du Bois
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Contributor Firm	Dupong, Krieps, Du Bois & Dias Videira

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

NA

**4. If you have any further comments on the matters raised in this section, please add them below.**

--

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes, since 1-1-2015.

**6. If so, are there any differences between opposite sex and same sex marriages?**

No.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

Yes, same sex couples may adopt a civil partnership, called "partenariat" since 9-07-2004.

**9. If so, is this available to opposite sex couples?**

---

Yes.

**10. What are the significant differences (if any) from marriage?**

---

Marriage offers a better protection to the spouses in case of dissolution (by separation or death).

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

NA.

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

In a “partenariat” you have the possibility to officially organize your common assets, but it is rarely done. Furthermore you have social security and pension benefits through your partner, as well as special holidays for the birth of a child/adoption/death.

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

No.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

Yes.

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

No.

**19. Is surrogacy legal in your jurisdiction?**

---

Surrogacy is not regulated, neither forbidden nor allowed.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

Jurisprudence is evolving, no consistent case-law.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

Gamete and/or embryo donation is not regulated.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

NA

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

N/A..

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

N/A.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

Parental authority is only acquired through an adoption, given that they are married.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

You must be married to adopt a child and thus acquire parental authority.

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

N/A.

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

---

No.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

---

Spouses are supposed to support themselves after the breakdown of their marriage, and spousal support is only granted after a divorce given special circumstances (illness, old age). It is granted very limited in time and/or amount. It can't be granted longer than the marriage lasted, except special circumstances.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

---

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

---

The partners can end their civil union by mutual consent. They must then submit a joint declaration to the civil register which registered the partenariat. If one of the partners decides to dissolve the partenariat he/she needs to notify the dissolution to the other through bailiff, which is then submitted to the civil register who registered it. The partenariat is automatically dissolved by the marriage of both partners or only one of the partners or by the death of one of the partners.

**32. Can financial claims be made on dissolution of the civil union?**

---

Only in very exceptional circumstances alimony might be granted to the partner who is less well off. Nothing is regulated regarding any shared assets, the partners are regarded as strangers to each other, if they didn't sign any agreement regarding these assets at the moment of the declaration of their partnership.

**33. If so, what financial claims can be made?**

---

Only alimony might be granted.

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

No.

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

---

No.

**36. If so, what claims can be made?**

---

N/A.

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

---

No.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

---

No.

**39. If so how?**

---

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

---

No.

**41. If so, how do they differ?**

---

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

---

No.

**44. If so, in what respect??**

---

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

---

No.

**46. If so, in what respect??**


---

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**


---

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**


---

Yes, since 29-11-2006 it is forbidden to discriminate anyone on the basis of sexual orientation, as well as for other reasons (e.g. religion, origin etc).

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**


---

Equal treatment should be respected in all aspects of life, and discrimination is a criminal offence by itself or as an aggravating circumstance if connected to another criminal offence. You have special regulations and procedures regarding discrimination access to work and in your job.

**50. If you have any further comments on the matters raised in this section, please add them below.**


---

A [Centre for Equal Treatment](#) has been created and is dedicated to actively promote equality of treatment of everybody and prevent any discrimination.

**51. Is it possible for a person to change their gender legally in your jurisdiction?**


---

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**


---

Parents can request to change the legal gender of their child from the age of 5 years. Between 12 and 18 years the minor needs to consent the request. If the parents and the child disagree, the court will decide in the best interest of the child. The age of majority is 18 years, which means that they can request themselves to legally change their gender.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**


---

The person has to address the competent authorities and has to prove:

1° they present the gender to which that person claims to belong in public

2° the gender to which that person claims to belong is known by their family, friends and professional environment

3° they officially changed their name to match with the gender to which they claim to belong

This process cannot be refused because there has not been a medical investigation.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

No, the consent is not required, there is only an obligation to inform the spouse in advance.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

There is no change of the status of the marriage/civil partnership.

**56. Is changing gender a ground for divorce in your jurisdiction?**

Since 1-11-18, the divorce on the grounds of fault has been abolished.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

No.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

Yes, since 29-11-2006 it is forbidden to discriminate a person on the basis of their status as a trans person.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

This discrimination is regulated by the same law as the discrimination on basis of sexual orientation which means that equal treatment should be respected in all aspects of life, and discrimination is a criminal offence by itself or considered as an aggravating circumstance if connected to another criminal offence. You have special regulations and procedures regarding discrimination access to work and in your job.

**60. If you have any further comments on the matters raised in this section, please add them below.**

NA

## JURISDICTION

## Monaco

Valid Date	09/17/18
Contributor Name	Jean-Charles S. Gardetto
Contributor Email	jc.gardetto@gardetto.mc
Contributor Firm	Law Offices of Jean-Charles S. Gardetto

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

NA

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

No.

**6. If so, are there any differences between opposite sex and same sex marriages?**

NA

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

No.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

No.

**9. If so, is this available to opposite sex couples?**

---

NA

**10. What are the significant differences (if any) from marriage?**

---

NA

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

NA

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

No.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

NA

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

NA

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

Yes.

**19. Is surrogacy legal in your jurisdiction?**

---

No.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

Yes, where surrogacy takes place overseas the legal relationship between the commissioning parents and the child will be recognized

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

No.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

NA

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

NA

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

NA

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

No.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

No.

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

---

NA

**29. What financial claims can be made on separation or divorce for a same sex couple?**

---

NA

**30. Do these claims differ in any way from those available to an opposite sex couple?**

---

NA

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

---

NA

**32. Can financial claims be made on dissolution of the civil union?**

---

NA

**33. If so, what financial claims can be made?**

---

NA

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

---

No.

**36. If so, what claims can be made?**

---

NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

---

NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

Yes.

**39. If so how?**

if child is born from adulter he has less rights in the estate of the married parent

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

No.

**41. If so, how do they differ?**

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

Yes.

**44. If so, in what respect??**

Absolutely no rights, treated as strangers, unless there is a will. From a tax point of view even with a will they are treated as unrelated and pay the maximum taxes

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

Yes.

**46. If so, in what respect??**

Considered as totally unrelated, like two single persons

**47. If you have any further comments on the matters raised in this section, please add them below.**

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

No.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

NA

**50. If you have any further comments on the matters raised in this section, please add them below.**

The government vetoed a proposal of a law to prohibit discrimination made by the parliament

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

No.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

NA

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

Never happened in Monaco NO legal process for that.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

NA

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

Nothing in the law.

**56. Is changing gender a ground for divorce in your jurisdiction?**

NA

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

Nothing in the statutes or case law.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

No.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

The government vetoed a proposal of a law to prohibit discrimination made by the parliament

## JURISDICTION

## Netherlands

Valid Date	12/17/18
Contributor Name	Ian Sumner
Contributor Email	i.sumner@uvt.nl
Contributor Firm	Tilburg University

---

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**


---

No

---

**2. If so, what are the penalties?**


---

NA

---

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**


---

NA

---

**4. If you have any further comments on the matters raised in this section, please add them below.**


---

NA

---

**5. Is it possible for a same sex couple to marry in your jurisdiction?**


---

Yes.

---

**6. If so, are there any differences between opposite sex and same sex marriages?**


---

The only difference applies with respect to children born within marriage. Parentage is automatic for different-sex marriages, whereas for children born during female same-sex marriages, this is not the case.

---

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**


---

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

---

Yes.

**9. If so, is this available to opposite sex couples?**

---

Yes.

**10. What are the significant differences (if any) from marriage?**

---

The main difference is that the termination mechanism can be achieved outside of court for registered partners (if there are no children and consent)

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

Yes.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

de facto relationships are not regulated by family law and are instead a pure contractual matter

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

There are huge differences. Although the vast majority of fiscal (tax and social security) issues are identical, the whole of family law and inheritance law does not apply to de facto unions (ie name law, nationality law, inheritance law, parentage law, adoption law etc).

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

The availability of children. The majority of adoptions take place internationally and this means

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

Yes.

**18. Can a sole homosexual person adopt in your jurisdiction?**

Yes.

**19. Is surrogacy legal in your jurisdiction?**

Yes.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

No.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

If the parentage between the original parent needs to be terminated, this must be done through the court. Although surrogacy is legal, mediation and other various aspects of surrogacy are illegal and the surrogacy contract is unenforceable.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

Yes.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

No.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

Yes, her wife automatically acquires parental responsibility (article 253sa, Book 1, Dutch Civil Code)

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

This is same for registered partners, but not for common-law relationships

**27. If you have any further comments on the matters raised in this section, please add them below.**

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

No.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

(a) spousal maintenance (currently maximum 12 years, although this will be reduced to 5 years shortly) (b) matrimonial property claims (c) pension claims

**30. Do these claims differ in any way from those available to an opposite sex couple?**

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

Either through death, court, by the civil registrar (with consent and without children), or through marriage

**32. Can financial claims be made on dissolution of the civil union?**

Yes.

**33. If so, what financial claims can be made?**

Same as for marriage.

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

No.

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

Yes.

**36. If so, what claims can be made?**

Only those based on the contract.

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

No.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

Yes.

**39. If so how?**

Children born during marriage automatically have the parents as their legal parents and they also automatically received parental authority. In the case of children born outside of marriage and registered partnerships, parentage and parental authority are not automatic.

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

Yes.

**41. If so, how do they differ?**

See earlier.

**42. If you have any further comments on the matters raised in this section, please add them below.**

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

No.

**44. If so, in what respect??**

---

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

---

No.

**46. If so, in what respect??**

---

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

---

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

---

This is laid down in various regulations and interpreted through the general "on any other ground" clause in the Dutch Constitution.

**50. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

---

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

---

18.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

---

Yes.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

---

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

---

Nothing.

**56. Is changing gender a ground for divorce in your jurisdiction?**

---

No.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

---

NA

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

No.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

## JURISDICTION

## Northern Ireland

Valid Date	01/23/19
Contributor Name	Karen O'Leary
Contributor Email	k.oleary@caldwellrobinson.com
Contributor Firm	Caldwell & Robinson

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

No.

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

No.

**6. If so, are there any differences between opposite sex and same sex marriages?**

Yes, same sex couples cannot marry. The only possibility is a civil partnership.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

NA

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

Yes.

**9. If so, is this available to opposite sex couples?**

---

Yes.

**10. What are the significant differences (if any) from marriage?**

---

None.

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

Not applicable.

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

There is no legislative provisions protecting de facto or common law relationships per se save in relation to children as against married or civil partnership who have recourse to the law in respect of the breakdown of their relationship.

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

NA

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

NA

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

NA

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

NA

**19. Is surrogacy legal in your jurisdiction?**

---

NA

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

NA

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

NA

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

NA

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

NA

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

NA

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

NA

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

NA

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

---

NA

**29. What financial claims can be made on separation or divorce for a same sex couple?**

---

NA

**30. Do these claims differ in any way from those available to an opposite sex couple?**

---

NA

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

---

NA

**32. Can financial claims be made on dissolution of the civil union?**

---

NA

**33. If so, what financial claims can be made?**

---

NA

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

---

NA

**36. If so, what claims can be made?**

---

NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

---

NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

---

NA

**39. If so how?**

---

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

---

NA

**41. If so, how do they differ?**

---

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

---

NA

**44. If so, in what respect??**

---

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

---

NA

**46. If so, in what respect??**

---

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

---

NA

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

---

NA

**50. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

---

NA

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

---

NA

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

---

NA

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

---

NA

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

---

NA

**56. Is changing gender a ground for divorce in your jurisdiction?**

---

NA

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

---

NA

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

NA

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

## JURISDICTION

## Norway

Valid Date	08/14/18
Contributor Name	Else-Marie Merckoll
Contributor Email	merckoll@ladv.no
Contributor Firm	Langseth Advokatfirma DA

---

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**


---

No

---

**2. If so, what are the penalties?**


---

See Q5.

---

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**


---

See Q5.

---

**4. If you have any further comments on the matters raised in this section, please add them below.**


---

See Q5.

---

**5. Is it possible for a same sex couple to marry in your jurisdiction?**


---

Yes.

---

**6. If so, are there any differences between opposite sex and same sex marriages?**


---

No.

---

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**


---

Yes.

---

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**


---

No.

**9. If so, is this available to opposite sex couples?**

---

No.

**10. What are the significant differences (if any) from marriage?**

---

There are no differences because civil union scheme got the same status as married couples from 01.01.2009

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

Yes.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

No.

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

See Q15,16.

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

Only in international adoption processes. Many countries of origin excludes same sex couples from adopting. This results in difficulties for same sex couples to adopt as national adoption is rare.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

Yes.

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

Yes.

**19. Is surrogacy legal in your jurisdiction?**

---

No.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

NA

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

NA

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

Sperm donation is legal – assisted fertilization. Embryo donation is not legal (embryos can only be inserted into the woman from whom the egg cells originate – assisted fertilization)

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

Yes.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

Yes.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

Q27,28 and 29. The sperm donor will not get parental relationship automatically. To get parental relations to the child the father must be married to the mother at the time of birth or declare that he is the father to the right authorities. The woman who does not give birth to the child is considered as co-mother if the parties are married at the time of birth (and the co-mother has approved the fertilization). Or else the woman who does not give birth to the child can apply for the status of co-mother.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

For both insemination and fertilization, the parties have to be married or in a marriage-like relationship. See Q12.

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

---

No.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

---

See Q12.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

---

See Q12.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

---

See Q12.

**32. Can financial claims be made on dissolution of the civil union?**

---

Yes.

**33. If so, what financial claims can be made?**

---

Q37 and 37, see Q12.

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

See Q12.

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

---

Yes.

**36. If so, what claims can be made?**

---

Depends on agreement between the parties during the common-law relationship. Same sex couples has the same rights as opposite sex couples.

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

See Q40.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

No.

**39. If so how?**

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

Yes.

**41. If so, how do they differ?**

Yes in relations to the paternity and parental right. See Q25-29.

**42. If you have any further comments on the matters raised in this section, please add them below.**

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

No.

**44. If so, in what respect??**

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

No.

**46. If so, in what respect??**

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

---

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

---

It is stated in our constitution.

**50. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

---

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

---

At the age of 16 you are allowed to apply for it.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

---

Yes, both.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

---

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

---

Nothing.

**56. Is changing gender a ground for divorce in your jurisdiction?**

---

Yes.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

---

In Norway you do not need a ground for divorce, so changing gender will not affect the divorce process

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

Yes.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

see Q53.

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

## JURISDICTION

## Poland

Valid Date	09/12/18
Contributor Name	Joanna Kosińska-Wiercińska
Contributor Email	jkw@wiercinski.pl
Contributor Firm	Wierciński Law Office

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

No.

**4. If you have any further comments on the matters raised in this section, please add them below.**

Being homosexual or engaging in homosexual sex has never been penalized in Poland.

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

No.

**6. If so, are there any differences between opposite sex and same sex marriages?**

NA

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

No.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

No.

**9. If so, is this available to opposite sex couples?**

---

NA

**10. What are the significant differences (if any) from marriage?**

---

NA

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

NA

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

No.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

NA

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

NA

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

Yes.

**19. Is surrogacy legal in your jurisdiction?**

---

No.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

NA

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

There are no specific legal regulations concerning these issues.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

NA

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

NA

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

NA

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

NA

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

---

NA

**29. What financial claims can be made on separation or divorce for a same sex couple?**

---

NA

**30. Do these claims differ in any way from those available to an opposite sex couple?**

---

NA

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

---

NA

**32. Can financial claims be made on dissolution of the civil union?**

---

NA

**33. If so, what financial claims can be made?**

---

NA

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

---

Yes.

**36. If so, what claims can be made?**

---

De facto relationship partners may have unjustified enrichment claims against each other.

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

---

No.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

No.

**39. If so how?**

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

No.

**41. If so, how do they differ?**

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

No, the treatment is different in the Spanish Civil Code between married and unmarried couples, be they of the same sex or opposite sexes. So, there is no difference based on the sexual condition of the couple, rather by type of relationship (you correctly note that same sex couples can marry).

**44. If so, in what respect??**

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

No.

**46. If so, in what respect??**

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

There is a general rule of law that prohibits discrimination of any form (art. 32.2 of Polish Constitution). There is also an act of Polish Parliament of 3rd December 2010 on the implementation of certain EU regulations on equal treatment. There are as well separate regulations in Labour Law (specifically related to discrimination on the basis of sexual orientation) and criminal regulations which are treated as a part of antidiscrimination law (Article 138 of the Code of Offences which is understood by the courts as a way of penalization (among others) of discrimination by refusal to provide services to anyone on the grounds of their sexual orientation).

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

18 years.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

Change of gender requires a legal proceedings before the court in which the expert's opinion is produced.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

---

Nothing. However, it might constitute the grounds for divorce.

**56. Is changing gender a ground for divorce in your jurisdiction?**

---

Yes.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

---

It may prove that the breakdown of marriage is permanent and irretrievable.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

Yes.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

## JURISDICTION

## Portugal

Valid Date	09/26/18
Contributor Name	João Perry da Câmara
Contributor Email	jpc@raassociados.pt
Contributor Firm	RA Associados - Sociedade de Advogados

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No

**2. If so, what are the penalties?**

No penalties.

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

No.

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

No.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

No.

**9. If so, is this available to opposite sex couples?**

---

NA

**10. What are the significant differences (if any) from marriage?**

---

NA

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

Yes.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

No.

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

No.

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

No.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

No.

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

Yes.

**19. Is surrogacy legal in your jurisdiction?**

---

No.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

No.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

The donor has no legal relationship with the child.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

NA

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

NA

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

Since 2016, it is automatic.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

It is different. In this situation, the one to acquire parental authority should adopt the child of the partner. For that the relation must have began, at least, 4 years before.

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

No.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

The same as in a divorce of opposite sex couples.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

NA

**32. Can financial claims be made on dissolution of the civil union?**

NA

**33. If so, what financial claims can be made?**

NA

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

Yes.

**36. If so, what claims can be made?**

Alimony and the use of the family home.

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

No.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

No.

**39. If so how?**

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

No.

**41. If so, how do they differ?**

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

No.

**44. If so, in what respect??**

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

No.

**46. If so, in what respect??**

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

The portuguese constitucional law forbides that discrimination, so, pleople you feels discriminated can react.

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

16 years old with authorization of the legal representatives.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

It is an administrative process. The person who wants to change gender, should present a request in the civil registration asking for the change of the name and the sexuality. In case of a minor, it should also be presented a medical report, issued by a doctor of any speciality saying that the will of change gender is free.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

Is kept.

**56. Is changing gender a ground for divorce in your jurisdiction?**

No.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

---

No.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

Yes.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

In the Portuguese civil code, it is specifically provided a prohibition of the discrimination of people who have changed gender. In the students status, is provided the prohibition to discriminate students that have changed gender. The Penal Code as an aggravation provided (hate crimes).

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

## JURISDICTION

## Russia

Valid Date	01/07/2020
Contributor Name	Olga Khazova
Contributor Email	<a href="mailto:o.khazova@gmail.com">o.khazova@gmail.com</a>
Contributor Firm	(academic)

### 1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?

No, if between adults.

### 2. If so, what are the penalties?

NA

### 3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.

Criminal Code art 132. "Criminal assault" – criminalizes "pederasty, lesbianism or other acts of a sexual nature with the use of violence or with the threat of its application to the victim or to other persons or using the helpless state of the victim".

Criminal Code art. 133. "Coercion to perform sexual acts" – criminalizes "forcing (coercion) a person to have sexual intercourse, pederasty, lesbianism or committing other acts of a sexual nature by means of blackmail, the threat of destruction, damage or seizure of property or using the material or other dependence of the victim".

Criminal Code art. 134. "Sexual intercourse and other sexual acts with a person under the age of sixteen" – criminalizes "pederasty or lesbianism with a person under the age of sixteen committed by a person above the age of eighteen" (part 2).

### 4. If you have any further comments on the matters raised in this section, please add them below.

--

### 5. Is it possible for a same sex couple to marry in your jurisdiction?

No.

## 6. If so, are there any differences between opposite sex and same sex marriages?

NA

## 7. Does your jurisdiction recognize foreign marriages of same sex couples?

Technically, yes, but there may be problems.

Firstly, the 1997 Federal Law on the Acts of Legal Status (as amended) art. 13. "Recognition of documents on state registration of acts of civil status as valid and certification of such documents" stipulates that:

"Documents issued by the competent authorities of foreign states in certifying acts of civil status committed outside the territory of the Russian Federation under the laws of the respective foreign states in relation to citizens of the Russian Federation, foreign citizens and stateless persons are recognized as valid in the Russian Federation if they are legalized, unless otherwise established by international treaty of the Russian Federation."

This means that foreign marriages of same sex couples should be recognized under this Law.

Secondly, in accordance with the Family Code art. 158

(1) Marriages between citizens of the Russian Federation and marriages between citizens of the Russian Federation and foreign citizens or stateless persons, concluded outside the territory of the Russian Federation in compliance with the laws of the state in the territory of which they are concluded, are recognized as valid in the Russian Federation if there are no provisions provided for in Article 14 of this Code of Conduct, Preventing Marriage.

(2) Marriages between foreign citizens entered into outside the territory of the Russian Federation in compliance with the laws of the state in whose territory they were entered into are valid in the Russian Federation.

The Family Code art. 14 establishes the conditions that prevents conclusion of legal marriage (monogamy, close relatives, adoption, insanity/legal incapacity). The requirement that would-be spouses should be of the opposite sex ("a man and a woman") is stipulated in the Family Code art. 12, which is not mentioned in the above-cited art. 158.

Therefore, foreign marriages of same sex couples should be recognized under the Family Code too.

Thirdly, however, the Family Code art. 1 "The Basics/Fundamental Principles of Family Legislation" in part 3 states that "regulation on family relations is carried out in accordance with the principle of voluntary marriage between a man and a woman...".

Therefore, it may be argued that a same sex marriage concluded outside Russia contradicts the fundamental principles ('public order') of Russian family law. Obviously, such a claim may be filed to court by a public prosecutor or any interested person (for instance, a heir in intestate succession at a later stage). So far, there were no such cases; so this is my own reflections.

The 1993 Constitution of the Russian Federation was amended recently, on the 1<sup>st</sup> of July (amendments in force from July 4, 2020), with a provision that states that the joint jurisdiction of the Russian Federation and the subjects of the Russian Federation includes among other (Art. 72 (ж.1)):

...protection of family, motherhood, fatherhood and childhood; protection of the institution of marriage as a union of a man and a woman; creating conditions for a decent upbringing of children in the family, as well as for adult children to exercise the responsibility to take care of their parents...

Taking into account the above-mentioned Constitutional amendments it is reasonable to expect that the Family Code will be amended accordingly.

=====

From my chapter (pages 218-19): Olga Khazova, *The Changing concept of 'family' and challenges for family law in Russia* / (ed.) J.M. Scherpe, 'European Family Law' (I--IV Vols. Cheltenham, UK: Edward Elgar Publishing, 2016. Vol. II. Pp.212-234.

The idea that marriage is a union of a man and a woman has always been one of the bases of Russian family law. It was regarded as inherent in the natural requirements of the formation and functioning of a family and an implied condition of a valid marriage. In Soviet times, this approach was fixed in legislation as one of the general principles of family law. Until relatively recent times it was not a topical issue, although by 1996 the Family Code strengthened the importance of this principle, having stipulated it not only as a general rule but also as a specific requirement for marriage. This was undoubtedly the legislature's response to demands from same-sex couples to legalise their unions.<sup>38</sup>

There were several unsuccessful attempts by same-sex couples to get married in the state bodies for registration of civil status in recent years and refusal was based on reference to the Family Code.<sup>39</sup> Despite lobbying on behalf of the gay and lesbian community (LGBT), it can be stated with certainty that same-sex marriage will not be allowed in the foreseeable future due both to a political situation that is extremely hostile to same-sex marriage and also to the strong opposition of the Orthodox Church.<sup>40</sup> The most recent manifestation of such an extreme negative attitude towards the LGBT community was the 2013 Federal Law known as the 'Law on Prohibition of Propaganda of Non-Traditional Sexual Relations Among Underage Children'.<sup>41</sup> Ironically, one of the first 'victims' of this law became an underage child herself – a ninth grade school underage student in one of the Russian regions, who openly announced her 'non-traditional sexual orientation' and who was systematically disseminating 'information directed to the formation of distorted ideas about social equality among traditional and nontraditional sexual relations'.<sup>42</sup> Another statute, also enacted in summer 2013, made it impossible for same-sex couples to adopt children.<sup>43</sup>

[Fts 38 See I M Kuznetsova (ed.), *Commentaries to the Family Code of Russian Federation* (in Russian). (2nd revised edn, Jurist 2000) 63.

<sup>39</sup> See for example, M Schwartz, 'In Moscow, an Attempt to Wed Pushes Gay Rights', *New York Times*, 12 May 2009 (available 25 June 2015 at [http://www.nytimes.com/2009/05/13/world/europe/13moscow.html?\\_r=3](http://www.nytimes.com/2009/05/13/world/europe/13moscow.html?_r=3)).

<sup>40</sup> In this context, it is enough simply to mention the St. Petersburg city law that bans 'homosexual propaganda'. See, for instance: <http://www.guardian.co.uk/world/2012/mar/12/st-petersburg-bans-homosexual-propaganda>; <http://www.newrepublic.com/article/112362/russias-gay-propaganda-ban-putin-brings-past-present#> (both last accessed 25 June 2015).

<sup>41</sup> The full title of the law is: *The Federal Law 'On Amendments to Section 5 of the Federal Law On Protection of Children from Information Causing Harm to Their Health and Development' and Some Legislative Acts of Russian Federation in order to Protect Children from Information Propagandizing the Rejection of Traditional Family Values'* of 29 June 2013 (in force from 2 July 2013).

<sup>42</sup> See <http://www.rferl.org/content/russia-teen-gay-propaganda/25251319.html>; <http://www.gazeta.ru/social/2014/02/03/5879045.shtml>; <http://www.gazeta.ru/social/2014/02/05/5883453.shtml> (in Russian) (all last accessed 25 June 2014).

<sup>43</sup> The Federal law of 2 July 2013 No 167-FZ 'On Amendments to Certain Legislative Acts of the Russian Federation on Matters of Placement of Children- Orphans and Children Left without Parental Care'. Section 3(8) of this Act amended s127 of the Family Code of the Russian Federation to exclude same-sex couples from adoption. See on this matter: 'Russia has introduced a law prohibiting adoptions by married homosexual couples and citizens from "same-sex marriage-friendly" States', Cambridge Journal of International and Comparative Law, posted 23 December 2013 (available 25 June 2015 at <http://cjlcl.org.uk/2013/12/23/russia-same-sex/>.)

## 8. Is there a civil union type scheme for same sex couples in your jurisdiction?

---

No.

## 9. If so, is this available to opposite sex couples?

---

NA

## 10. What are the significant differences (if any) from marriage?

---

NA

## 11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?

---

No.

## 12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?

---

De facto or cohabiting relationships are not recognized for heterosexual couples either.

## 13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.

---

NA

## 14. If you have any further comments on the matters raised in this section, please add them below.

---

--

## 15. Is it possible for a same sex couple to adopt a child in your jurisdiction?

---

No. The Family Code art. 127 (1) stipulates the list of persons who cannot adopt a child; among these persons; this list includes persons who are parties to a same-sex marriage concluded in accordance with the legislation of the state in which such marriage is permitted, as well as persons who are citizens of the that state and are not married (13).

The Family Code art. 127 (4) also says that persons who are not married to each other cannot together adopt the same child.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

NA

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

NA

**18. Can a sole homosexual person adopt in your jurisdiction?**

Technically, there is no prohibition for a single person to be an adoptive parent in the Family Code. However, taking into account mentioned above (para T.), I completely exclude a possibility that adoption may be allowed for a single homosexual person, if the authorities are aware about sexual orientation of a would-be adoptive parent.

See for instance, the most recent stories at <https://www.hrw.org/news/2019/07/24/life-unraveling-russian-same-sex-couple-and-their-kids>; <https://www.rferl.org/a/russia-spain-transgender/29984995.html>

**19. Is surrogacy legal in your jurisdiction?**

Yes.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

No, first of all because they will not be registered as legal parents in birth registry books and a birth certificate.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

Yes. But as to surrogacy the law is very confusing, and, technically, the answer should be rather negative. If you need more detailed answer, pls see docs attached – pages 296-310 from my chapter:

Surrogacy in Russia / (eds.) Jens M Scherpe, C. Fenton-Glynn, T. Kaan. Eastern and Western Perspectives on Surrogacy, Intersentia. 2019. Pp. 281-306

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

The donor does not have any rights and does not acquire the status of a legal parent in any case.

**23. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

NA

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

NA

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

No

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

No, it is the same.

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

--

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

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NA

**29. What financial claims can be made on separation or divorce for a same sex couple?**

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NA

**30. Do these claims differ in any way from those available to an opposite sex couple?**

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NA

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

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NA

**32. Can financial claims be made on dissolution of the civil union?**

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NA

**33. If so, what financial claims can be made?**

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NA

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

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NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

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NA

**36. If so, what claims can be made?**

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NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

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NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

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No difference.

**39. If so how?**

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NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

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No.

**41. If so, how do they differ?**

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NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

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**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

---

No, if inheritance by will (bequest heir). As the same-sex marriage is not recognized, the parties to such a union are not considered as intestate heirs by law.

**44. If so, in what respect??**

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NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

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No.

**46. If so, in what respect??**

---

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

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**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

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Under Russian Constitution 1993:

1. All people shall be equal before the law and court.
2. The State shall guarantee the equality of rights and freedoms of man and citizen, regardless of sex, race, nationality, language, origin, property and official status, place of residence, religion, convictions, membership of public associations, and also of other circumstances. All forms of limitations of human rights on social, racial, national, linguistic or religious grounds shall be banned.
3. Man and woman shall enjoy equal rights and freedoms and have equal possibilities to exercise them.

Thus, the Russian Constitution does not directly refer to sexual orientation or gender identity. However, because the list of prohibited discrimination is open, discrimination on the grounds of sexual orientation or gender identity is considered to be prohibited in Russia.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

There is no practice of special regulation of the prohibition of discrimination on any grounds. There is only a general prohibition of discrimination on various grounds that covers also sexual orientation.

**50. If you have any further comments on the matters raised in this section, please add them below.**

--

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes, it is possible.

The only existing legal provision is in the 1997 Federal Law on the Acts of Legal Status (as amended) art. 70, which states that conclusion (decision) of the civil registry office on correction of or amendments to the civil registry entry is made if, among other cases, a document on gender reassignment is presented, issued by a medical organization in the form and in the manner established by the competent authority (Ministry of Health).

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

From 18 years of age.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

The process is poorly regulated and complicated. Psychiatric and/or medical investigation is required. The Ministry of Health issued a ministerial order where all the medical/psychiatric aspects are stipulated.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

No regulation. However, because marriage is a union between a man and a woman under Russian law, it is assumed that a transgender person should get divorced.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

NA

**56. Is changing gender a ground for divorce in your jurisdiction?**

No. However there are no particular grounds for divorce in Russian law (just marriage breakdown).

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

---

There are no legal provisions on this matter. However, in fact, it may affect issues related to divorce.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

As noted before, there is only a general prohibition of discrimination on various grounds that covers also sexual orientation, transgender, etc.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

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NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

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I have also attached an article published in 2017 where the author criticizes a Russian court judgment that refused to approve change of gender of a transgender applicant particularly with the reference to the complications that such a change will bring to his spouse and his child (16 years of age) and will violate their rights. The article is in Russian, but it has an English summary.

# Scotland

Valid Date	10/02/18
Contributor Name	Rachael Kelsey
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Contributor Firm	SKO

## 1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?

No

## 2. If so, what are the penalties?

NA

## 3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.

Not that I'm aware of.

## 4. If you have any further comments on the matters raised in this section, please add them below.

NA

## 5. Is it possible for a same sex couple to marry in your jurisdiction?

Yes.

## 6. If so, are there any differences between opposite sex and same sex marriages?

Minimal- adultery is not a basis to establish irretrievable breakdown, given our very particular definition of adultery.

## 7. Does your jurisdiction recognize foreign marriages of same sex couples?

Yes.

## 8. Is there a civil union type scheme for same sex couples in your jurisdiction?

Yes.

**9. If so, is this available to opposite sex couples?**

---

No.

**10. What are the significant differences (if any) from marriage?**

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Legally aren't many. Most differences are around the ancillary, public law consequences, eg pensions, immigration etc.

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

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Yes.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

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In theory no, in practice as the remedies are discretionary, I would say there can be. I acted for the surviving cohabitant in the first death claim in Scotland (in 2007) and my client happened to be in a same sex relationship. My view was that he was not treated as he would have been were he a straight cohabitant (though I accept his gender may also have been an issue).

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

Our provision for cohabitants is less than that for married couples. There is no obligation of support and no general sharing of the value of the fruits of the relationship. There is space, however, for a correction where there has been economic advantage/disadvantage and some limited potential for claims arising from the economic burden of caring for children of the family.

**14. If you have any further comments on the matters raised in this section, please add them below.**

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NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

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Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

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No.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

No.

**18. Can a sole homosexual person adopt in your jurisdiction?**

Yes.

**19. Is surrogacy legal in your jurisdiction?**

Yes.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

Yes.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

Needs to be undertaken at a licensed clinic.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

No.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

No.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

Yes. Operation of law.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

Same in civil partnership. Otherwise no automatic parental authority. In such cases there is no mechanism for other mother to acquire parentage, all she can do is apply, after birth for parental rights and responsibilities- ways to exercise rights, but not acquisition of status as parent.

**27. If you have any further comments on the matters raised in this section, please add them below.**

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

We don't have adultery as a means of establishing that the marriage has broken down irretrievably. otherwise is the same.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

Same as for straight couples. Property transfer, pension-sharing, capital sum and maintenance.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

Dissolution procedure which is virtually identical to divorce.

**32. Can financial claims be made on dissolution of the civil union?**

Yes.

**33. If so, what financial claims can be made?**

Same as if a marriage is being dissolved.

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

Yes.

**36. If so, what claims can be made?**

Capital sum only.

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

No. Cohabitants' rights are the same whether straight or same-sex couple.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

Yes.

**39. If so how?**

See answer below- they may not have two parents.

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

Yes.

**41. If so, how do they differ?**

Fathers who are unmarried and don't jointly register the birth don't acquire parental responsibilities and rights automatically- they need to be given them by the mother (and comply with a process to do so) or acquire from the court.

**42. If you have any further comments on the matters raised in this section, please add them below.**

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

No.

**44. If so, in what respect??**

I am not 100% sure on this, as it is not my area, but I think all public law inheritance issues have now been equalised

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

Yes.

**46. If so, in what respect??**

I believe there are still some differences re pensions, but this is not my area of expertise.

**47. If you have any further comments on the matters raised in this section, please add them below.**

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

This isn't really my area (again- sorry!), but we have equalities act legislation which allows remedies to be sought if the discrimination is by a public body and damages can be sought also. In the private sphere it is more mixed- provision of services should not be discriminatory and damages can be sought.

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

18.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

Yes, at the moment. Psychiatric investigation is required. the Scottish government are consulting on this at the moment and proposing change to self-certification basis.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

If the couple are in a marriage, they remain in a marriage and the change of gender does not effect any changes to accrued rights. if they are in a civil partnership they have to cnvert that to a marriage before the transition (as we do not recognise mixed-sex civil partnerships)

**56. Is changing gender a ground for divorce in your jurisdiction?**

Yes.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

Not in any substantive way, no. in Scotland (unlike in E & W) no written consent (the so called spousal veto) is required), but it does speed up the process if written consent is given.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

Yes.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

Can be direct or indirect- direct if you are treated less favourably because of your 'protected status'- which can include sexual orientation or gender assignment or indirect which is about a rule, policy or practice having a disproportionate adverse effect on people with a protected characteristic.

**60. If you have any further comments on the matters raised in this section, please add them below.**

NA

# Slovakia

Valid Date	01/06/2020
Contributor Name	Daniela Jezova
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Contributor Firm	JUDr. Daniela Ježová, LL.M., PhD., law office

## 1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?

No.

## 2. If so, what are the penalties?

NA

## 3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.

No.

## 4. If you have any further comments on the matters raised in this section, please add them below.

No.

## 5. Is it possible for a same sex couple to marry in your jurisdiction?

No.

## 6. If so, are there any differences between opposite sex and same sex marriages?

Slovakia does not have marriage of the same sex defined in the jurisdiction.

## 7. Does your jurisdiction recognize foreign marriages of same sex couples?

No (but based on the ECJ decision Coman- Hamilton) Slovak republic has the duty to provide the rights to the same sex married coupled, such as free movement of persons right (beneficially recipients).

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

Civil union is a legally recognized arrangement similar to marriage created primarily as a means to provide recognition in law for same-sex couples. Same-sex unions not legally recognized in Slovakia.

**9. If so, is this available to opposite sex couples?**

No.

**10. What are the significant differences (if any) from marriage?**

NA.

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

Slovakia does not recognize a couple on official basis.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

NA.

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

Divorce of same sex marriage is not possible in Slovakia. In case of death the partner inherit on the basis that he lived together in common household not on the legal title of marriage.

**14. If you have any further comments on the matters raised in this section, please add them below.**

--

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

Not as a couple. One of the partners can adopt a child by his own. The other partner will not be registered in birth certificate of that child.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

NA

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

See above.

**18. Can a sole homosexual person adopt in your jurisdiction?**

Yes. A minor can exceptionally be adopted by a single person. This person must meet the conditions for adoption to be in the best interests of the child. In our practice we have dealt successfully case of adoption of a single homosexual person.

**19. Is surrogacy legal in your jurisdiction?**

No, surrogacy is not legal in Slovakia.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

NA

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

There is no parental relationship between the donor and the child. The identity of the donor is hidden and applicants do not have the opportunity to find out which person donated the gamete. Donation of gametes or embryos is anonymous.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

NA.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

There is no parental relationship between the donor and the child.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

Same-sex marriage Slovak law does not regulate.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

NA.

**27. If you have any further comments on the matters raised in this section, please add them below.**

--

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

No same sex marriage legal in Slovakia.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

NA.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

NA.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

Civil union type scheme is not recognized in Slovakia jurisdiction.

**32. Can financial claims be made on dissolution of the civil union?**

Civil union type scheme is not recognized in Slovakia jurisdiction.

**33. If so, what financial claims can be made?**

No claims can be made in Slovakia, as Civil union type scheme is not recognized in Slovakia jurisdiction.

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

Civil union type scheme not available in Slovakia jurisdiction.

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

No. They have property division in case they obtained the property as shared owners.

**36. If so, what claims can be made?**

---

NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

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NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

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No. The law treats children of unmarried parents in the same way as children of married parents.

**39. If so how?**

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NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

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No. Parental rights of unmarried parents are the same as the parental rights married parents.

**41. If so, how do they differ?**

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NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

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**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

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Yes, the same sex couple cannot inherit on the basis of the marriage but on the basis of living together in one household. Same sex couple can inherit also based on will. The same sex couple can inherit only in the third group. The married couple inherits in first group.

**44. If so, in what respect??**

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NA.

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

No.

**46. If so, in what respect??**

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

--

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

Article 12 paragraph 2 of the Constitution of the Slovak Republic stipulates that "fundamental rights and freedoms are guaranteed in the territory of the Slovak Republic to all ..." Sexual orientation and gender identity are not directly mentioned in it, but can be included under the term "other status", which was first explicitly mentioned in its judgment by the Constitutional Court of the Slovak Republic in 2005.

The Anti-Discrimination Act č. 365/2004 Z.z. prohibits discrimination on the grounds of sexual orientation in all areas covered by the law, ie in the areas of employment and similar legal relationships, social security and social benefits, health care, provision of goods and services, including housing, and education. It also applies to other national legislation to which the anti-discrimination law applies.

The Labor Code č. 311/2001 Z.z. (article 1 and § 13) directly states the prohibition of restrictions and discrimination also on the grounds of gender (ie gender identity) and sexual orientation.

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes, Slovak legislation allows it on the basis of laws. In practice, however, it is usually accessible from the age of 18.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

It is possible to change legal gender from the age of 18. Even before the operation itself, which can only be performed after the age of 18, sex hormones are given.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

To change documents, the birth number must be changed. The law states that a change of birth number is achieved on the basis of a medical opinion on the person's gender reassignment, but the "gender reassignment" is no longer specified anywhere. This opinion can also be issued by any psychiatrist. In practice, however, confirmation of a psychiatric-sex outpatient clinic is often required, and "gender reassignment" is often understood as termination of reproductive capacity (removal of the uterus and ovaries, or removal of the testicles).

In Slovakia, there is a common model of proving that your gender identity is not really the one they attributed to you at birth on the basis of genitals. If you are identified as a man at birth, you will be burdened with proving that you are a woman; if you were identified as a woman at birth, you will be expected to convince others that you are a man.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

If the person applying for a medical transaction is married, healthcare providers usually insist that the person divorce, even if it is a marriage in which both people want to stay. The reason is that the same sex couple marriage is not legal in Slovakia. But this particular situation is not stipulated by Slovak law.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

This particular situation is not stipulated by Slovak law.

**56. Is changing gender a ground for divorce in your jurisdiction?**

--

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

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**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

Yes.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

Discrimination against transgender people occurs most often in the area of services, but discrimination in employment is also very harmful and widespread. The most vulnerable are transsexual people in the period of gender reassignment, when their documents do not correspond to their appearance and identity. This situation also applies to those trans people who do not want or cannot undergo gender reassignment. With regard to discrimination against transgender people, it is important to draw attention to the fact that it is considered to be discrimination on grounds of sex in European law.

The European Court of Justice has recognized that a transgender who is discriminated against may be protected by the prohibition of discrimination based on sex if he or she has completely changed or reassigned to sex.

**60. If you have any further comments on the matters raised in this section, please add them below.**

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## JURISDICTION

## Spain

Valid Date	02/27/19
Contributor Name	Ramsés Abad Roset
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Contributor Firm	Domenech Abogados

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

No.

**4. If you have any further comments on the matters raised in this section, please add them below.**

No.

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

No, they have the same rights.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

Yes.

## 9. If so, is this available to opposite sex couples?

---

Yes.

## 10. What are the significant differences (if any) from marriage?

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In the Spanish Civil Code, civil partnerships do not have the same rights recognised as for marriage (so as regards inheritance, for instance), and the courts assume that anyone who is able to marry but doesn't, does this because they do not want to submit to marital regulation.

## 11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?

---

Yes.

## 12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?

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They are only regulated in some regional law systems and there is no difference in treatment. These regional regulations do not require the registration of *de facto* or common law relationships. As a general rule, you can expect that a *de facto* relationship exists where: they have lived together for at least two years uninterrupted; they have children together during the time when they live together; or the relationship is formalised by any public deed in front of a notary. Some regulations anticipate that the couple will register the relationship, but this is not necessary for a *de facto* relationship to exist. This registration can be relevant to receive a widow/widower's pension in case of death of one of the partners.

## 13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.

---

NA

## 14. If you have any further comments on the matters raised in this section, please add them below.

---

Q12 - The Spanish Civil Code does not regulate civil partnerships, be they between homosexual or heterosexual couples. By contrast, certain Spanish regional laws, like the Catalan and the Basque, do recognise civil partnerships without distinction of sex and invest them with rights (for example, as to inheritance). Q15 - Not in the Spanish Civil Code, although evidently this does not affect the children of unmarried couples (parental responsibility, maintenance, etc.).

## 15. Is it possible for a same sex couple to adopt a child in your jurisdiction?

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

No.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

Yes although some regional legislation allows civil partners to adopt

**18. Can a sole homosexual person adopt in your jurisdiction?**

No.

**19. Is surrogacy legal in your jurisdiction?**

No.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

No.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

There is no judicial relationship established between the donor and the child.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

No.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

No.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

She does not acquire parental responsibility. But in the case of a marital crisis, the courts have recognised contact rights for the wife who is not the biological mother.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

No.

**27. If you have any further comments on the matters raised in this section, please add them below.**

Q19 - Yes, because it is possible for them to marry. Q23 - It is forbidden by law. But the courts have allowed registration in the Spanish Civil Registry of the birth of a child conceived in this manner in a country which allows this technique and where one of the biological parents is Spanish. Q24 - See answer for Q23. Q27 and 28 - see answer for Q26.

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

No, the same procedural rules apply.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

The same ones as in respect of marriage of an opposite sex couple.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

In the regional legislation regulating them they are dissolved by cessation of cohabitation, by court ruling, by public notarial deed or by death of one of the civil partners.

**32. Can financial claims be made on dissolution of the civil union?**

Yes.

**33. If so, what financial claims can be made?**

An example, would be partner maintenance.

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

No.

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

---

NA

**36. If so, what claims can be made?**

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NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

---

NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

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No.

**39. If so how?**

---

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

---

No.

**41. If so, how do they differ?**

---

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

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Q36 - Only in in the regions where local legislation recognises these civil unions. Q's 39-41 - Not under the Spanish Civil Code, but a claim can be made under regional rules where such relationships are recognised.

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

No.

**44. If so, in what respect??**

Civil partners do not have the same rights of inheritance in the absence of a will, according to the Spanish Civil Code.

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

No.

**46. If so, in what respect??**

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

Q47 - Yes, in the Spanish Civil Code. But not in the regional legislation that specifically regulate these couples.

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

For example, it cannot be any sort of impediment to accessing public office.

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

There is no minimum age, but in the case of minors it is necessary to have the consent of the legal guardians and judicial authorisation.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

Medical and psychological reports are required.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

Nothing should happen given that same-sex marriage is permitted, just as no-fault divorce is.

**56. Is changing gender a ground for divorce in your jurisdiction?**

No.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

No. Divorce is freely available in Spain as from three months after marriage. It is not necessary to prove fault in order to divorce.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

Yes.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

There is no general law at state level, but there are regional regulations. For example and in general terms, no one can be pressured or obliged to declare publicly their sexual identity or undergo surgical, hormonal or psychiatric treatments aimed at modifying or eliminating their sexual orientation or identity. Submitting people to tests or examinations aimed at determining their sexual identity or orientation is also prohibited. Public entities are urged to adopt policies facilitating the social integration of such groups as well as supporting and protecting people who are the object of discrimination in their familial environment, amongst neighbours, at school or at work, etc.

**60. If you have any further comments on the matters raised in this section, please add them below.**

Q60 - Divorce is freely available in Spain as from three months after marriage.

## JURISDICTION

## Sweden

Valid Date	10/10/18
Contributor Name	Mia Reich-Sjögren
Contributor Email	mia@reichsjogren.com
Contributor Firm	Advokaterna Sverker och Mia Reich Sjögren AB In cooperation with Advokatfirman Ljung

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

NA

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

NA

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

No.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

No.

**9. If so, is this available to opposite sex couples?**

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NA

**10. What are the significant differences (if any) from marriage?**

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NA

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

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Yes.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

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No.

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

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NA

**14. If you have any further comments on the matters raised in this section, please add them below.**

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NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

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Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

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NA

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

No.

**18. Can a sole homosexual person adopt in your jurisdiction?**

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Yes.

**19. Is surrogacy legal in your jurisdiction?**

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No.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

NA

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

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No.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

NA

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

NA

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

NA

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

Adoption.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

NA

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

Embryo donation will most probably be permitted in January 2019.

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

No.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

Same as same sex couples.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

By the parties themselves but distribution of jointly owned home and assets in the home shall be made of requested.

**32. Can financial claims be made on dissolution of the civil union?**

Yes.

**33. If so, what financial claims can be made?**

See above.

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

No.

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

Yes.

**36. If so, what claims can be made?**

See above.

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

No.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

No.

**39. If so how?**

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

Yes.

**41. If so, how do they differ?**

If the parents are not married one is the legal custodian unless she/he agrees to joint custody.

**42. If you have any further comments on the matters raised in this section, please add them below.**

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

No.

**44. If so, in what respect??**

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

No.

**46. If so, in what respect??**

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

NA

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

No legal limit but you have to apply and also go through a long period of investigation.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

Yes.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

Nothing.

**56. Is changing gender a ground for divorce in your jurisdiction?**

No.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

We do not need grounds for divorce.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

Yes.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

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NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

## JURISDICTION

## Switzerland

Valid Date	1/06/20
Contributor Name	Alain Berger
Contributor Email	berger@brslaw.ch
Contributor Firm	BRS Advocates

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

Article 189 of the Criminal Code ("sexual coercion") is mostly aiming to protect the sexual liberty of homosexuals. The reason for this is that article 190 ("rape") is only applicable for female victims. But the author of a violation of article 189 or 190 is facing exactly the same criminal punishment.

**4. If you have any further comments on the matters raised in this section, please add them below.**

--

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

No.

**6. If so, are there any differences between opposite sex and same sex marriages?**

NA

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes (but, according to art. 45 (3) of the Swiss International Private Law Act, as a registered partnership).

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

---

Yes (it is called “registered partnership”).

**9. If so, is this available to opposite sex couples?**

---

No.

**10. What are the significant differences (if any) from marriage?**

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As to the celebration, slight formal different requirements (contrarily to the marriage, the presence of two witnesses is not required and the public officer is not using a sacramental formulation). As to the patrimonial aspects, same sex registered partners are submitted by default to the separate property regime while married people are submitted to the property regime of participation in acquisitions. Regarding maintenance, this obligation is much lower between same sex partners than between married spouses. The dissolution of a registered partnership is easier (one year of separation) than of a marriage (two years of separation).

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

Married people and registered partners are reciprocally heirs, have a maintenance obligation towards the other and are submitted to a property regime (participation in acquisitions for spouses but separate property for registered partners).

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

The Swiss National Council, one of the chambers of the Swiss Parliament, recently approved a project of law which aims to allow same sex couples to marry, and to permit lesbian couples to have access to sperm donation. This project will now have to be discussed by the Swiss State Council.

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

No (according to art. 28 of the Federal Law on the registered partnership between same sex persons and to art. 264a of the Swiss Civil Code).

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

NA

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

No (according to art. 264b (1) of the Swiss Civil Code).

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

Yes (because art. 264b (1) of the Swiss Civil Code is stating that a single person – no reference being made to its sexual orientation – may adopt).

**19. Is surrogacy legal in your jurisdiction?**

---

No.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

NA

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

Yes (for sperm only).

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

According to the Federal Act on Medically Assisted reproduction, only married couples may use donated sperm cells. Consequently, a child conceived through sperm donation in accordance with the provisions of this Act cannot challenge its filiation with the husband of his/her mother (art. 23). Thus, the principle is the absence of any filiation or relationship between the donor and the child.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

NA

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

NA

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

According to the Federal Act on Medically Assisted reproduction, only married couples may use in Switzerland donated sperm cells. This formulation excludes same sex couple, even entered into a registered partnership.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

Yes (a registered partner has the obligation to assist on an appropriate way his partner in the exercise of parental authority. However, a judge may not grant parental authority on the child of the other partner. Therefore, the only way is the adoption of the partner's child.

**27. If you have any further comments on the matters raised in this section, please add them below.**

If the surrogacy is strictly forbidden in Switzerland, the Court is facing more and more cases linked to the recognition of a filiation relationship established abroad between a child born from a surrogate mother and a parent who has no genetic relationship with him.

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

--

**29. What financial claims can be made on separation or divorce for a same sex couple?**

--

**30. Do these claims differ in any way from those available to an opposite sex couple?**

--

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

By a judicial dissolution.

**32. Can financial claims be made on dissolution of the civil union?**

Yes.

**33. If so, what financial claims can be made?**

---

a) Maintenance, provided the creditor partner is not able to afford his/her living expenses in reason of the role repartition decided by the couple or in case the dissolution of the partnership has financial consequence leading to deflection. b) The use of the couple home for a limited period.

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

--

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

---

No (unless they are considered as having concluded a kind of commercial partnership).

**36. If so, what claims can be made?**

---

NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

---

NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

---

No.

**39. If so how?**

---

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

---

Yes.

**41. If so, how do they differ?**

---

The mother of a child born in Switzerland out of wedlock has initially the sole custody (legal and physical) until she consents to shared custody or a judge orders it.

**42. If you have any further comments on the matters raised in this section, please add them below.**

---

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**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

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No (provided they have registered their partnership).

**44. If so, in what respect??**

---

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

---

No (provided they have registered their partnership).

**46. If so, in what respect??**

---

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

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**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

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Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

---

a) By art. 8 (2) of the Federal Constitution of the Swiss Confederation prohibiting indirectly discrimination based on sexual orientation. And b) By art. 28 seq. of the Swiss Civil Code allowing civil claims for the violation of personality rights.

**50. If you have any further comments on the matters raised in this section, please add them below.**

---

Article 261 bis of the Criminal Code which prohibits racial discrimination will, as of July 1st, 2020, also prohibits sexual orientation discrimination. This article will finally not prohibit discrimination based on gender identity.

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**51. Is it possible for a person to change their gender legally in your jurisdiction?**


---

Yes.

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**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**


---

There is no specific limit age in order to change legal gender in our jurisdiction. This being said, the Swiss Doctrine states that a person wishing to change the his/her legal gender must be capable of judgement within the meaning of the Swiss Civil Code if he or she does not lack the capacity to act rationally by virtue of being under age or because of a mental disability, mental disorder, intoxication or similar circumstances.

---

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**


---

In order to gain legal recognition, the concerned person will have to lodge a formal request before the Court of First Instance (request for modification of the gender). Such proceedings can be very lengthy and expensive. Persons wishing to modify their gender must submit themselves to a psychological examination. Swiss Federal Council is currently reviewing a modification of our Swiss Civil Code regarding the modification of gender. [https://www.admin.ch/ch/f/gg/pc/documents/2958/Changement-de-sexe-a-l-etat-civil\\_Rapport-expl\\_fr.pdf](https://www.admin.ch/ch/f/gg/pc/documents/2958/Changement-de-sexe-a-l-etat-civil_Rapport-expl_fr.pdf)

---

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**


---

No.

---

**55. What happens to the status of the marriage/civil partnership when one party transitions?**


---

Nothing.

---

**56. Is changing gender a ground for divorce in your jurisdiction?**


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No. A modification of gender which takes place after registration of the marriage or of the partnership does not lead automatically to its dissolution. Such approach is debated within the Swiss Doctrine. However, it is very likely that the modification of gender will be considered by Courts as a serious ground for dissolution.

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**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**


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No.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

No (there is no provision protecting specifically the trans person). However, art. 8 (2) of the Federal Constitution protects indirectly the gay, lesbian, bisexual and transgender persons. Furthermore, reference is made to the answer given under question 53.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

The same way it can happen for racial or religious discrimination.

**60. If you have any further comments on the matters raised in this section, please add them below.**

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The Parliament is discussing the registration of a third gender in the civil state or the abandonment of the registration of gender in the civil state

## JURISDICTION

## Turkey

Valid Date	01/06/2020
Contributor Name	Mert YALÇIN
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Contributor Firm	Yalçın & Toygar Law Office

### 1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?

In Turkish law, LGBT (lesbian, gay, bisexual, transgender) identities have never been outlawed. However, there is not any written law, by-law or regulation directly regarding the homosexuality in the laws of Republic of Turkey, too. In accordance with the general legal principle that is accepted in Turkey; criminalization is not possible for anything that does not have any law or legal ground. In other words, the authorities do not have any legal provisions to punish the homosexuality or engaging in homosexual sex.

### 2. If so, what are the penalties?

In accordance with the answer provided above, there is not any penalty regulated in Turkish Law to punish the homosexuality.

### 3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.

There is not any special regulations about homosexuals in any branch of Turkish Laws. However, The Article 122 of Turkish Penal Code may be deemed related to the homosexuals (in a positive way to prevent discrimination against them) and these provisions are as follows:

- (1) A person who prevents;
  - a) Selling, transferring or renting a movable/unmovable property that is a matter of public record to someone,
  - b) Someone from taking advantage of a service that is a matter of public record,
  - c) Someone from being hired,
  - d) Someone from performing a usual economic activity

With a reason of hate arising from someone's language, race, nationality, color, sex, disability, political idea, philosophical belief, religion or sectarian difference shall get prison sentence from 1 year to 3 years.

**4. If you have any further comments on the matters raised in this section, please add them below.**

As stated above, there are not any legal grounds in Turkish Criminal Law to accept homosexuality as a crime. However, on the other hand, homosexuals might be subjected to maltreatment in other indirect ways, too.

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

According to Turkish law, it is not possible for same sex couples to marry. In other words, civil marriage is not open to same-sex couples and there is no other alternative registration scheme similar to marriage. Also there is no other alternative registration scheme entailing less rights and responsibilities than marriage and same-sex partners are not recognized by the state and the state does not provide some/limited rights and any obligations.

**6. If so, are there any differences between opposite sex and same sex marriages?**

As stated above, the same sex marriage is not recognized by Turkish state. Thus, the “marriage” institution only means opposite sex marriages under Turkish Laws.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Turkey does not recognize same-sex marriages, civil unions or domestic partnership benefits due to “public order” causes. Since, same-sex marriage is not recognized in Turkish law, same-sex marriages which have been validly contracted in a foreign jurisdiction are considered as “null and void” in Turkey.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

As stated above, Turkey does not recognize same-sex marriages, civil unions or domestic partnership benefits with its law.

**9. If so, is this available to opposite sex couples?**

Civil partnership and same-sex marriage are not recognized for same sex couples as stated above. However, civil partnership or any scheme similar to marriage besides marriage is also not recognized for opposite sex couples in Turkey, too.

Under Turkish Civil Code, the institution of civil partnership does not exist. Any provision of foreign law that is contrary to the public order of Turkey will not be applied to the case (Article 5, International Private and Procedure Law). In such cases, where it is considered necessary, the Turkish law will be applicable. Under the Civil Code, marriage has close links with public order and the form of the marriage is strictly regulated, as a result, civil partnerships are not recognized for both same sex or opposite sex couples in Turkey.

**10. What are the significant differences (if any) from marriage?**

As stated above, Turkey does not recognize same-sex marriages, civil unions or domestic partnership benefits, so there is nothing to compare. The only possible way for an official registration of a relationship (between opposite sex couples) is marriage.

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

Turkey does not recognize same-sex marriages, civil unions or any kind of domestic partnership benefits either for opposite sex couples or same sex couples.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

As stated above, Turkey does not recognize same-sex marriages, civil unions or any kind of domestic partnership benefits either for opposite sex couples or same sex couples.

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

As stated above, Turkey does not recognize same-sex marriages, civil unions or any kind of domestic partnership benefits either for opposite sex couples or same sex couples including de facto relationships and cohabitation relationships.

**14. If you have any further comments on the matters raised in this section, please add them below.**

A same-sex partnership law should come into force in order to allow LGBT persons to have equal rights with heterosexual couples. However, these notions are brand new for Turkey and its public order, so it is expected to take a while to make such law

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

Under Turkish law, there is no law allowing or prohibiting adoption by same sex couples. But adoption by same-sex couples is not recognized by law. Adoption by a single parent is allowed under some circumstances. And second parent adoption is also allowed. These adoption provisions of Turkish Civil Law are as follows:

Article 306 of Turkish Civil Code: "A husband and wife may only together. Unmarried couples cannot adopt a child. For adoption, couples should have been married for five years and they must have reached the age of 31. The husband or wife, if the couple has been married for at least two years and s/he has reached the age of 31 may adopt the other's child."

Article 307 of Turkish Civil Code: "An unmarried person who has reached the age of 31 may adopt a child alone."

However, adoption by same-sex couples is not permitted in Turkey; additionally, Turkish authorities have attempted to reclaim Turkish children adopted into foreign countries by same-sex couples. It is unclear that if there is such law that prevents this situation.

## 16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?

As stated above; in Turkish law, there is no law allowing or prohibiting adoption by same sex couples. However, adoption by same-sex couples is not recognized by law.

## 17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?

As stated above; Turkey does not recognize same-sex marriages, civil unions or any kind of domestic partnership for same-sex couples. Thus, there is not such obligation regulated under Turkish Civil Law and this is not a condition that should be met for adopting a child.

## 18. Can a sole homosexual person adopt in your jurisdiction?

- Sole adoption conditions of Turkish Civil Law are listed below:

- a. the adoption shall be for the benefit of the child upon review of all circumstances in the case,
- b. the applicant must be at least eighteen years older than the child,
- c. consent of the child must be obtained if the child has the capacity to act on his/her behalf,
- d. the consent of the biological parents must be obtained in accordance with Article 309 of the Civil Code, with the exceptions noted in Articles 311 and 312 (if the parents cannot be located or if their care for the child is not adequate),
- e. a single applicant must be older than thirty years of age,
- f. couple applicants must have been married for at least five years or both must have attained the age of thirty,
- g. a spouse younger than thirty years of age can adopt his or her spouse's child only if they have been married for more than two years,
- h. a spouse can adopt a child alone if he or she can prove that the other spouse is mentally incapacitated, that for a continuous period of more than two years the other spouse has been absent or his or her whereabouts unknown, or that the couple has been legally separated for over two years since the issuance of a court decision,

While adoptive parents are allowed to be single or married, a married couple can only adopt the child jointly and unmarried couples may not adopt a child together under Turkish Civil Code.

Thus, any gender preference or being homosexual or heterosexual is not underlined as a condition for sole adoption under Turkish Law. Current situation can be interpreted like it is possible for a sole homosexual person to adopt a child under Turkish Civil Law.

## 19. Is surrogacy legal in your jurisdiction?

Under Turkish law, the mother is the person who gives birth to the child. This is a fact that cannot be disputed. Legal basis of it is the Article 282/1 of the Turkish Civil Code that says that the relationship between the mother and child is established through birth. In other words, surrogate motherhood "has no basis in Turkish law" and the surrogate mother is the actual mother because she is the one who gives birth to the child.

Surrogacy agreements are against Turkish legal rules, personal rights and Turkish public order. These agreements are considered to be null and void in Turkey, and cannot be executed. Parties cannot force each other to carry out the obligations of a surrogacy agreement. If a surrogate mother gets paid under the terms of a surrogacy agreement, the money can be a form of unjust enrichment and can be taken back under the Code of Obligations.

Moreover, if a Turkish couple wants to have a child through surrogacy, they usually choose to go abroad and come back with a baby, which they have registered under their names who are the genetic parents. Northern Cyprus, Ukraine and Georgia are some close countries where Turkish couples prefer to go and have their baby there through surrogacy.

- Under the new regulations, it is forbidden for doctors to provide information on surrogacy.

## **20. If so, can a same sex couple gain parentage for a child through surrogacy?**

As stated above; surrogacy is not allowed under Turkish Civil Code and in accordance with Turkish public order. Thus, it is not possible for either opposite sex couples or same-sex couples to gain status for a child through surrogacy as one of the main principles of Turkish family law is “the relationship between the mother and child is established through birth”.

## **21. Is gamete and/or embryo donation legal in your jurisdiction?**

Under Turkish Civil Law, Regulations of Assisted-Reproduction Treatment Applications and Assisted-Reproduction Treatment Centers and Regulations of In vitro Fertilization; in vitro fertilization is only possible for the married couples in Turkey.

According to the Article 18/5 of the relevant regulation; the couple who uses treatment application shall use only their own reproductive cells. Using a donor in any way, producing embryos through a donor, using embryos that are produced with the egg and sperm received from the applicants on others or using embryos that are produced with the egg and sperm received from others on the applicants are forbidden. In case a pregnancy that is a conclusion of acting contrary to these rules is determined at any phase of the pregnancy, the treatment center shall be closed indefinitely and all the relevant workers shall be banned from working at other treatment centers.

As it is understood from this article; donating sperm, egg or surrogacy is not permitted under Turkish law.

## **22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

As stated above; only married couples can apply this treatment in Turkey and being a married couple is not the only condition to apply this treatment. The conditions shall be met are;

- a. Being married to each other,
- b. Using only the couple’s own reproductive cells,
- c. Providing sufficient evidences that married couple could not have children with the other treatment applications that are not listed in the regulation

Although marriage condition sparks a debate, in this current situation; marriage is accepted as the condition for validity and still applies.

Please note that; the parental relationship between the donor and the child does not need to be terminated since the donors are the actual parents of the child due to the law not permitting using third parties as donors for in vitro fertilization in Turkey.

### **23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

As stated above; donating sperm, egg or surrogacy is not permitted under Turkish law unless a married couple wants to apply the in vitro fertilization treatment with their own egg and sperm.

Due to donating a third party's reproductive cells to a same-sex married couple is not legally possible in Turkey and performing such transactions can lead to be sentenced for doctors and medical scientists, termination of the parental relationship between the donor and the child cannot be discussed in this situation.

### **24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

Donating sperm, egg or surrogacy is not permitted under Turkish law unless a married couple wants to apply the in vitro fertilization treatment with their own egg and sperm. Thus, the donation cannot be made to a homosexual unmarried woman or man since being married to each other is a condition to apply in vitro fertilization; so that termination of the parental relationship cannot be discussed in this situation.

### **25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

As stated above; under Turkish law; married couples that want to apply the in vitro fertilization treatment; are only able to receive this treatment with their own egg and sperms. Thus, it is not possible to have a child through this treatment for a woman in a same sex marriage biologically due to the lack of her partner's sperms and also since the parties are obliged to be married to each other but the same sex marriage is not allowed or recognized in Turkey.

### **26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

As stated above, Turkey does not recognize same-sex marriages, civil unions or domestic partnerships, de facto or cohabitating relationship for either opposite sex couples or same sex couples.

**27. If you have any further comments on the matters raised in this section, please add them below.**

With the consideration of the current provisions of Turkish Civil Law, unfortunately, it is not possible for a same sex couple to be recognized as married or as a part of civil union or to obtain any legal status of a child through adoption or other fertilization treatments

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

As stated above; same-sex marriage is not permitted under Turkish Civil Law and the same-sex marriages are not recognized by the state. Moreover, there is not any other alternative registration scheme entailing less rights and responsibilities than marriage and any kind of same-sex partnerships are not recognized by the state and Turkish state does not provide some/limited rights and obligations.

Thus, we cannot discuss any other divorce process rather than the process regulated for the opposite sex married couples.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

As stated above; same-sex marriage is not permitted under Turkish Civil Law and the same-sex marriages are not recognized by the state. Thus, we cannot discuss about divorce of a same-sex couple and their financial claims in this process within Turkish jurisdiction. Thus, in case of a same sex relationship ends, the parties will not be able to make any financial claims against each other.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

As stated above; same-sex marriage is not permitted under Turkish Civil Law and the same-sex marriages are not recognized by the state. So, there is not any divorce proceeding ever held between a same sex couple in Turkey and we cannot say that there are differences than a regular divorce of the opposite sex couples as marriage/divorce of a same-sex couple is not possible in Turkish jurisdiction.

It should be noted that; only in case of termination of a marriage between opposite sex couples, the financial claims can come to the table and be requested.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

Civil partnership for both opposite sex couples and same-sex couples and same-sex marriages are not allowed or recognized in Turkey. Under Turkish Civil Code, the institution of civil partnership does not exist. Since any provision of foreign law that is contrary to the public order of Turkey will not be applied, any civil union type scheme will not be deemed as valid within Turkish state.

Thus, official dissolution of a civil union is never an issue in Turkey. Once again, the only official relationship status is marriage and its dissolution are either divorce or separation under Turkish Civil Code.

### **32. Can financial claims be made on dissolution of the civil union?**

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As stated above; civil partnership for both opposite sex couples and same-sex couples and same-sex marriages are not allowed or recognized in Turkey. Under Turkish Civil Code, the institution of civil partnership does not exist. Any provision of foreign law allowing such institution and which is contrary to the public order of Turkey will not be applied.

Thus, official dissolution of a civil union is never an issue in Turkey. The only official relationship status is marriage and its dissolution are either divorce or separation under Turkish Civil Code. Besides that, any relationship ending between a same sex or opposite sex couple will not entitle the parties to make any financial claims against each other (besides the termination of the marriage which is the only official registration of a relationship).

### **33. If so, what financial claims can be made?**

---

Civil partnership for both opposite sex couples and same-sex couples and same-sex marriages are not allowed or recognized in Turkey. Under Turkish Civil Code, the institution of civil partnership does not exist. Any provision of foreign law that is contrary to the public order of Turkey will not be applied.

Thus, official dissolution of a civil union is never an issue in Turkey.

### **34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

Civil partnership for both opposite sex couples and same-sex couples and same-sex marriages are not allowed or recognized in Turkey. Thus, there is not any provision made for the financial provisions for the opposite sex couples' civil unions.

### **35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

---

As previously explained, Turkey does not recognize same-sex marriages, civil unions or domestic partnerships, de facto or cohabitating relationship between a same sex couple. Thus, there is not any provision made for the financial claims of a same sex couple. Since the only official registration of a relationship is marriage (between opposite sex couples), termination of a relationship between a same sex couple, will not entitle parties to make financial claims against each other.

### **36. If so, what claims can be made?**

---

As stated above, Turkey does not recognize same-sex marriages, civil unions or domestic partnerships, de facto or cohabitating relationship between a same sex couple. Thus, there is not any provision made for the financial claims of a same sex couple

### 37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.

As stated above, Turkey does not recognize same-sex marriages, civil unions or domestic partnerships, de facto or cohabitating relationship between a same sex couple. Thus, there is not any provision made for the financial claims of a same sex couple

### 38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?

Turkish Law does not treat the children of unmarried parents differently from the children of married parents. Moreover, the Constitutional Court has made a decision dated 1987 and has cancelled the provisions of the heirdom of a natural child to his/her father and upon this decision, the Article 443/2 of Civil Code that has determined the heirdom of the children of unmarried parents different from the children of married parents has also been cancelled.

According to the Article 337/I of the Turkish Civil Code (TCC), the custody of the natural child belongs to his/her mother; and establishment of paternity subsequently between the father and his child does not affect the fact that the mother has the right to custody by herself. So, in case an unmarried couple has a child, it is the natural conclusion that the mother will have the sole custody of the child.

The establishment of paternity between the father and his child does not affect the fact that the mother has the right to custody by herself; however, this causes replacement of the child's surname. The natural child shall acquire the surname of the father if the paternity relationship is established between the natural child and the father, and the natural child shall acquire the surname of the mother if the paternity relationship is not established (TCC Art. 321). (A child of married parents automatically acquires the father's surname due to the presence of marriage between the parents.) In case the natural child acquires the father's surname, the surname of the mother who has the right to custody and the surname of her child will consequently be different from each other; and it is quite likely that this will cause a number of difficulties in the daily life, particularly the difficulty in proving the right to custody

### 39. If so how?

When a natural child of an unmarried couple is born and when the mother has the custody and the child is represented by the mother; if the surname of the mother and the surname of the child are different from each other; it causes some difficulties for official acts. Moreover, the child being subjected to the questions of "why his/her surname is different from his/her mother's surname" does not comply with their personal privacy and the general principle of the respect for the family life (Art. 20 of the Constitution, Art. 8 of the ECHR).

Moreover, although it has been stated above that the difference between the children of unmarried parents and the children of married parents has been removed, it is clear that the natural child still needs legal recognition or a special case to determine the father legally. Without the determination of the father, she/he cannot be an inheritor to his/her father.

In case an unmarried couple has a child, it is the natural conclusion that the mother will have the sole custody of the child. In this case, determination of the father is legally possible with filing an action to establish paternity or recognition of the natural child by the father.

Please note that, recognition of the natural child by the father does not grant the custody of the child to the father. The father still needs to file for regulation of the custody if the required conditions are met to change the custodial parent of the child.

#### **40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

Yes, the parental rights of unmarried parents differ from married parents. As stated above; according to the Article 337/I of the Turkish Civil Code (TCC), the custody of the natural child belongs to his/her mother; and establishment of paternity subsequently between the father and his child does not affect the fact that the mother has the sole custody right by herself. So, in case an unmarried couple has a child, it is the natural conclusion that the mother will have the sole custody of the child.

Moreover, if the father of the natural child wishes to have his parental rights/obligations, determination of the father is legally possible with filing an action to establish paternity or recognition of the natural child by the father.

Please note that, recognition of the natural child by the father does not grant the custody of the child to the father. The father still needs to file for regulation of the custody if the required conditions are met to change the custodial parent of the child. However, these legal actions for the father to have his parental rights grant him a right to access to the child through legal means.

#### **41. If so, how do they differ?**

As stated above; according to the Article 337/I of the Turkish Civil Code (TCC), the custody of the natural child belongs to his/her mother; and establishment of paternity subsequently between the father and his child does not affect the fact that the mother has the sole custody right by herself. So, in case an unmarried couple has a child, it is the natural conclusion that the mother will have the sole custody of the child. In case of exceptional situations that the mother cannot execute the custody or it is not possible for her to execute the custody, the custody of the child may be granted to the father or a guardian may be appointed for the child with the consideration of the Judge.

Since, the parental rights also contain the right to decide about child's habitual residence, the mother who has the custody can move another country with the child without needing the permission or the consent of the father.

However, in case a married couple has a child, both parents have the parental rights of the child who was born within the marriage union.

#### **42. If you have any further comments on the matters raised in this section, please add them below.**

According to the Article 295 of Turkish Civil Code, "The father can acknowledge the child with an application to registrar or the court or with a declaration in his statement."

The father who acknowledges the child has right to request from the Court to regulate/change the custody issue. In that case; the Court examines whether there are conditions which require removing the custody from the mother or

not. If the Court determines that the required conditions to remove the custody from the mother could not meet, the mother continues to have the custody right.

As a conclusion; if parents are not married the custody will be granted to the mother automatically at birth. This right of custody contains the responsibility of the care and protection of the child and also the rights to decide the name, habitual residence, education and representation of the child. Moreover, if the father acknowledges the child, it may grant him the right to access to the child.

#### **43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

As stated above, Turkey does not recognize same-sex marriages, civil unions or domestic partnership benefits for same-sex couples. Thus, there is not any specific regulation on inheritance for the same-sex couples.

Specifically; it should be indicated that; since the adoption, surrogacy or any other possible way to obtain a legal status for a child is not possible for same-sex couples in Turkey, they cannot have any member of their lower lineage who can inherit.

In terms of inheritance of spouses; as Turkey does not recognize same-sex marriages or any other alternative registration scheme such as civil unions or domestic partnership, a same-sex couple cannot be inheritor to each other.

#### **44. If so, in what respect??**

As stated above, Turkey does not recognize same-sex marriages, civil unions or domestic partnership benefits for same-sex couples. Thus, there is not any specific regulation on inheritance for the same-sex couples.

#### **45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

As stated above, Turkey does not recognize same-sex marriages, civil unions or domestic partnership benefits for same-sex couples. Thus, there is not any difference on taxation for the same-sex couples in Turkey.

#### **46. If so, in what respect??**

As stated above, Turkey does not recognize same-sex marriages, civil unions or domestic partnership benefits for same-sex couples. Thus, there is not any difference on taxation for the same-sex couples in Turkey.

#### **47. If you have any further comments on the matters raised in this section, please add them below.**

A same-sex couple that wishes to have each other as inheritors can prepare a testament to state their will about the inheritance. Although Turkey does not recognize same-sex marriages, civil unions or domestic partnership benefits for same-sex couples, they can leave their property to each other just like they can do the same for third parties; they do not need to be officially married to appoint each other as inheritors for themselves.

However, the reserved portion of the other inheritors of the deceased cannot be violated while preparing a testament.

#### **48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

Yes, it is prohibited by the Turkish Penal Code and it is deemed as a crime to perform such discrimination.

#### **49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

As stated above, The Article 122 of Turkish Penal Code prohibits the discrimination based on various differences with the provisions below :

(1) A person who prevents;

- a) Selling, transferring or renting a movable/unmovable property that is a matter of public record to someone,
- b) Someone from taking advantage of a service that is a matter of public record,
- c) Someone from being hired,
- d) Someone from performing a usual economic activity.

With a reason of hate arising from someone's language, race, nationality, color, sex, disability, political idea, philosophical belief, religion or sectarian difference shall get prison sentence from 1 year to 3 years. Thus, we can say that discrimination of a person on the basis of sexual orientation is prohibited under Turkish Law with the provisions of Turkish Penal Code.

#### **50. If you have any further comments on the matters raised in this section, please add them below.**

Although there is an article in the Turkish Penal Code, unfortunately the content analysis shows that especially trans-individuals experience physical, sexual, and emotional violence in addition to experiencing discrimination in employment, housing, and healthcare. It is clear that Turkish state needs to make more efficient laws against the discrimination especially based on the sexual orientation.

#### **51. Is it possible for a person to change their gender legally in your jurisdiction?**

Sex change is possible under Turkish Civil Law with the conditions set under the Article 40 of Turkish Civil Code; The Article 40 of Turkish Civil Code – “A person who wishes to change his/her sex may make an application to the Court in person and request the permission for sex change. However, to obtain the permission, there are some requirements that shall be met; the applicant should be over eighteen, should be not married; should have the transsexual nature and the applicant is obliged to document that the sex change is mandatory for the applicant's mental health with an official health board report obtained from a training and research hospital.

When it is verified with an official health board report that a sex-change operation has been held in accordance with the purpose of the given permission and medical procedures, the court decides to perform the necessary corrections in the civil registry.”

Moreover, The Constitutional Court has decided to annul the legal requirement “to be deprived of the ability to reproduce” to allow sex change.

## **52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

As it is standard in the Article 40 of the Turkish Civil Code, the sex-change is only possible after 18 years of age which is the legal age in Turkey.

## **53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

Sex change has two stages in Turkey. First stage is to make an application to the Court for the permission for the operation. If the applicant meets the conditions required in the Article 40/1 of Turkish Civil Code, then an examination shall be requested to be performed in a training and research hospital. Usually, the Court requests a report to be prepared by the Gender Identity Counsel of these hospitals. In the first phase of this examination, a psychiatrist examines if the applicant is mentally available for the sex change (it is necessary to submit any other previous mental reports of the applicants if any to obtain a positive report). After the positive report, the treatment process starts and upon the official report of the training and research hospital, all the requirements shall be met.

After this stage, upon the correction with an official health board report that a sex-change operation has been held in accordance with the purpose of the given permission and medical procedures; the second stage begins to change sex in the civil registry that requires a second case to be filed and it is possible to file this case with the request of name change, too. However, when a name change is requested, the Court may need to hear witnesses besides the official health board report obtained.

## **54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

As it is stated in the Article 40 of the Turkish Civil Code; being not married/single is one of the requirements to obtain the permission of the Court for the sex change. Otherwise, this request of the applicant shall be rejected by the Court at the beginning of the whole process.

## **55. What happens to the status of the marriage/civil partnership when one party transitions?**

- As it is stated in the Article 40 of the Turkish Civil Code; being not married/single is one of the requirements to obtain the permission of the Court for the sex change. Otherwise, this request of the applicant shall be rejected by the Court at the beginning of the whole process. However, in an extreme case where the Court permission has been obtained for a married applicant to change his/her sex; there are several different opinions on how this will affect the current marriage:

1. First Opinion : This opinion says that sex-change would cause the self-termination of the marriage because for the couples that apply for marriage, having the opposite sex is a requirement since the same-sex marriage is not allowed under Turkish Civil Law and in case of a same-sex marriage, the marriage is considered as “void”. Thus, it is thought in the doctrine that this condition should be taken into account during the marriage, not just at the beginning

of the marriage and with this reason, if a married person changes his/her sex, his/her marriage should be considered as “void” automatically without needing any other transaction to be performed.

2. Second Opinion : This opinion says that the self-termination of the marriage is only possible with the death of a party as it is stated in the Law and sex-change does not conclude this situation. Sex-change of a party should be added to the Law as a reason of considering the marriage as “null”. A marriage established in accordance with Turkish Civil Code can only be terminated with a Court decision. In case a sex-change without the permission obtained from the Court, the sex-change will not be approved and recognized. Thus, the marriage will be valid on the documents since the party who had the sex-change operation without the permission of the Court cannot change his/her gender in the civil registry due to the lack of the Court’s permission. Thus, the only way for spouses to terminate this marriage is to file for a divorce case as based on the general grounds.

## **56. Is changing gender a ground for divorce in your jurisdiction?**

Considering a marriage as “null” or “void” is a conclusion of the necessary conditions not meeting for the marriage, however, the other reasons occurred during the marriage can only be considered as a divorce ground. Sex-change of a party after the marriage is not a lack of a condition at the time of the marriage, it is only a reason that makes the common life unbearable. Thus, there is not any penalty for sex-change during the marriage but it can be used as a divorce ground for “irremediable breakdown of the marriage” under the Article 166 of Turkish Civil Code.

It should be noted that this would be an extreme case since being single/not married is a requested condition for sex change and since the conditions are examined by the Court before approving the process.

## **57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

As stated above and also in the Law, being unmarried/single is a condition for sex-change. However, in case a married person has changed his/her gender somehow, there is not any different procedures foreseen in the Law and the marriage will be valid on the documents since the party who had the sex-change operation without the permission of the Court cannot change his/her gender in the civil registry due to the lack of the Court’s permission. Thus, the divorce process will be held in accordance with the present provisions of the Law that are determined for the opposite sex couples.

It should be stated that; sex-change cannot be accepted as a direct ground for material or moral compensation for the opposite party but if he/she is the one who makes the common life and marriage union unbearable and who is at the most fault, can be asked for a compensation during a divorce proceeding.

## **58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

Yes, discrimination is accepted as a crime under Turkish Penal Code, as stated above.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

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As stated above; The Article 122 of Turkish Penal Code prohibits the discrimination based on various differences with the provisions below :

- (2) A person who prevents;
- e) Selling, transferring or renting a movable/unmovable property that is a matter of public record to someone,
- f) Someone from taking advantage of a service that is a matter of public record,
- g) Someone from being hired,
- h) Someone from performing a usual economic activity

With a reason of hate arising from someone's language, race, nationality, color, sex, disability, political idea, philosophical belief, religion or sectarian difference shall get prison sentence from 1 year to 3 years.

Thus, we can say that discrimination of a trans person is prohibited under Turkish Law with the provisions of Turkish Penal Code.

**60. If you have any further comments on the matters raised in this section, please add them below.**

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We agree on the Second Opinion stated above that the self-termination of the marriage is only possible with the death of a party as it is stated in the Law with the principle of "Numerus Clauses" and sex-change does not conclude this situation. Sex-change of a party should be added to the Law as a reason of considering the marriage as "null" since having the opposite genders is a requirement for the establishment of the marriage, this condition should be valid during the whole marriage.

## JURISDICTION

## Israel

Valid Date	08/14/19
Contributor Name	Edwin Freedman
Contributor Email	edwin@edfreedman.com
Contributor Firm	Law Offices of Edwin Freedman

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

Article 189 of the Criminal Code (“sexual coercion”) is mostly aiming to protect the sexual liberty of homosexuals. The reason for this is that article 190 (“rape”) is only applicable for female victims. But the author of a violation of article 189 or 190 is facing exactly the same criminal punishment.

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

No.

**6. If so, are there any differences between opposite sex and same sex marriages?**

NA

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

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No.

**9. If so, is this available to opposite sex couples?**

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No.

**10. What are the significant differences (if any) from marriage?**

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NA

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

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Yes.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

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No.

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

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Civil union arrangements are for a very narrowly defined category of persons. Common law marriages are treated the same as legal marriage, whether same sex couples or opposite sex couples.

**14. If you have any further comments on the matters raised in this section, please add them below.**

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Marriage in Israel is solely by religious law. Thus there is no possibility under a religious system to permit same sex marriage. Common law marriages are widely accepted and are treated the same as legal marriages. The only difference between same sex and opposite sex common law marriages is the inability of same sex couples to adopt in Israel.

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

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No.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

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NA

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

NA

**18. Can a sole homosexual person adopt in your jurisdiction?**

No.

**19. Is surrogacy legal in your jurisdiction?**

Yes.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

No.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

If it is not an anonymous donation, then only by court order.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

NA

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

NA

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

Only by court order.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

No.

**27. If you have any further comments on the matters raised in this section, please add them below.**

If the adoption or surrogacy took place abroad, Israel will recognize the parenthood of same sex couples who have adopted or used surrogacy.

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

NA

**29. What financial claims can be made on separation or divorce for a same sex couple?**

The same as a married couple.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

NA

**32. Can financial claims be made on dissolution of the civil union?**

NA

**33. If so, what financial claims can be made?**

NA

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

Yes.

**36. If so, what claims can be made?**

Equitable distribution of union assets.

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

No.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

No.

**39. If so how?**

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

No.

**41. If so, how do they differ?**

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

No.

**44. If so, in what respect??**

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

Yes.

**46. If so, in what respect??**

Opposite sex couples automatically have joint files, while same sex couples do not.

**47. If you have any further comments on the matters raised in this section, please add them below.**

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

There are specific laws that prohibit discrimination based on sexual orientation regarding employment, sale of products and educational frameworks.

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

18.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

Psychiatric approval

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

Unknown.

**56. Is changing gender a ground for divorce in your jurisdiction?**

---

No.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

---

I assume that it would constitute grounds for divorce although there is no case law on the matter.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

No.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

## JURISDICTION

## Canada, British Columbia

Valid Date	01/07/19
Contributor Name	John-Paul Boyd
Contributor Email	jpboyd@boydarbitration.ca
Contributor Firm	John-Paul Boyd Arbitration Chambers

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

NA

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

No.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

No.

**9. If so, is this available to opposite sex couples?**

---

NA

**10. What are the significant differences (if any) from marriage?**

---

NA

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

Yes.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

No.

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

Marriage requires a divorce order to terminate; no order is required to terminate common-law relationships.

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

No.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

No.

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

Yes.

**19. Is surrogacy legal in your jurisdiction?**

---

Yes.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

Yes.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

Agreement between the parties prior to conception.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

Yes.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

Yes.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

Under federal law, the child will be a "child of the marriage" to which both spouses will have parental responsibilities. Under provincial law, they will both be guardians of the child.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

Common-law parents must cohabit during the life of the child to qualify as guardians. An assisted reproduction agreement will be required to make both legal parents.

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

No differences.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

Same as opposite-sex couples: division of family property, spousal support, child support.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

NA

**32. Can financial claims be made on dissolution of the civil union?**

NA

**33. If so, what financial claims can be made?**

NA

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

Yes.

**36. If so, what claims can be made?**

Same as opposite-sex couples: division of family property, spousal support, child support.

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

No.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

No.

**39. If so how?**

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

Yes.

**41. If so, how do they differ?**

Under provincial law, the parents must cohabit during the life of the child to both qualify as guardians.

**42. If you have any further comments on the matters raised in this section, please add them below.**

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

No.

**44. If so, in what respect??**

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

No.

**46. If so, in what respect??**

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

Sexual orientation was read into the equality provisions of our Charter of Rights and Freedoms (a sort of bill of rights), and prohibits discrimination by governments and government agencies. Human rights legislation operates to prohibit discrimination in the provision of services outside of government.

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

19 and older without the consent of the parents; parents usually apply on behalf of younger people.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

Don't know.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

Nothing.

**56. Is changing gender a ground for divorce in your jurisdiction?**

No.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

---

Not at all.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

Yes.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

Discrimination with respect to the availability of services, employment and so on.

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

The law doesn't explicitly prohibit this discrimination, but would be extended to discrimination of that basis.

## JURISDICTION

## Dominican Republic

Valid Date	10/01/18
Contributor Name	Dilia Jorge Mera
Contributor Email	dilejome@gmail.com
Contributor Firm	Dilia Leticia Jorge Mera, Law Firm

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

NA

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

No.

**6. If so, are there any differences between opposite sex and same sex marriages?**

NA

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

No.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

No.

**9. If so, is this available to opposite sex couples?**

---

Yes.

**10. What are the significant differences (if any) from marriage?**

---

We don't yet have a law that regulates civil union, but the Constitution expressly says that civil union between man and woman generates rights. According to jurisprudences, those rights generate after at least 5 years of the union, and both parties should be single. Among other considerations.

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

NA

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

NA

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

NA

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

NA

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

NA

**19. Is surrogacy legal in your jurisdiction?**

---

NA

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

NA

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

NA

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

NA

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

NA

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

NA

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

NA

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

NA

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

---

NA

**29. What financial claims can be made on separation or divorce for a same sex couple?**

---

NA

**30. Do these claims differ in any way from those available to an opposite sex couple?**

---

NA

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

---

NA

**32. Can financial claims be made on dissolution of the civil union?**

---

NA

**33. If so, what financial claims can be made?**

---

NA

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

---

NA

**36. If so, what claims can be made?**

---

NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

---

NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

---

NA

**39. If so how?**

---

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

---

NA

**41. If so, how do they differ?**

---

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

---

NA

**44. If so, in what respect??**

---

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

---

NA

**46. If so, in what respect??**

---

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

NA

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

NA

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

NA

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

NA

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

NA

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

NA

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

NA

**56. Is changing gender a ground for divorce in your jurisdiction?**

NA

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

NA

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

NA

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

## JURISDICTION

## Mexico

Valid Date	09/25/18
Contributor Name	Alfonso J. Sepulveda García
Contributor Email	asepulveda@seplaw.com.mx
Contributor Firm	Sepúlveda y Díaz Noriega S.C.

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

NA

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

No.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

Yes.

**9. If so, is this available to opposite sex couples?**

---

Yes.

**10. What are the significant differences (if any) from marriage?**

---

NA

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

Yes.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

NA

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

In Mexico City none.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

Yes.

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

Yes.

**19. Is surrogacy legal in your jurisdiction?**

---

No.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

NA

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

According to the Civil Code of Mexico City, the donation of germ cells does not generate kinship between the donor and the child product of assisted reproduction.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

Yes.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

Yes.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

Mexico, like most of Latin America, is a Civil Law country. Each Mexican State has its own Civil Code and its Code of Civil Procedures, which are applicable within its own sphere of authority to resolve local issues. So, it depends on each states law.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

Mexico, like most of Latin America, is a Civil Law country. Each Mexican State has its own Civil Code and its Code of Civil Procedures, which are applicable within its own sphere of authority to resolve local issues. So, it depends on each states law.

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

---

No.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

---

The same that opposite-sex couple.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

---

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

---

By the decision of one of the couple.

**32. Can financial claims be made on dissolution of the civil union?**

---

Yes

**33. If so, what financial claims can be made?**

---

Alimony.

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

No. However, bear in mind that Mexico, like most of Latin America, is a Civil Law country. Each Mexican State has its own Civil Code and its Code of Civil Procedures, which are applicable within its own sphere of authority to resolve local issues. So, it depends on each states law.

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

---

Yes.

**36. If so, what claims can be made?**


---

Alimony.

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**


---

No.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**


---

No.

**39. If so how?**


---

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**


---

No.

**41. If so, how do they differ?**


---

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**


---

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**


---

No.

**44. If so, in what respect??**


---

However, please bear in mind that Mexico, like most of Latin America, is a Civil Law country. Each Mexican State has its own Civil Code and its Code of Civil Procedures, which are applicable within its own sphere of authority to resolve local issues. So, it depends on each states law.

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

No.

**46. If so, in what respect??**

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

In terms of the Mexican Constitution article 1 last paragraph: Every form of discrimination motivated by ethnic or national origin, gender, age, incapacities, sexual preferences, status or any other which attempt on human dignity or seeks to annul or diminish the rights and liberties of the people, is prohibited. The National Council to Prevent Discrimination (CONAPRED) is the Mexican federal government agency responsible for ensuring the rights to non discrimination, as well as equal opportunities and treatment.

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

18 years.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

In Mexico City, the process is to appear before the Civil Registry and request a new birth certificate for the recognition of the gender identity, previous the corresponding annotation in its original birth certificate.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

The marriage is still valid.

**56. Is changing gender a ground for divorce in your jurisdiction?**

Yes.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

In Mexico is not required to divorce grounds.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

Yes.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

In terms of article 1st of the Mexican Constitution.

**60. If you have any further comments on the matters raised in this section, please add them below.**

NA

## JURISDICTION

## United States, Alabama

Valid Date	10/25/18
Contributor Name	Wendy Crew
Contributor Email	Wbcrew4@aol.com
Contributor Firm	Crew Law Group

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

Yes.

**2. If so, what are the penalties?**

Never imposed.

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

No.

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

No.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

No.

**9. If so, is this available to opposite sex couples?**

---

NA

**10. What are the significant differences (if any) from marriage?**

---

NA

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

NA

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

No.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

Yes.

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

NA

**19. Is surrogacy legal in your jurisdiction?**

---

NA

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

NA

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

NA

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

NA

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

NA

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

NA

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

NA

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

NA

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

---

NA

**29. What financial claims can be made on separation or divorce for a same sex couple?**

---

NA

**30. Do these claims differ in any way from those available to an opposite sex couple?**

---

NA

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

---

NA

**32. Can financial claims be made on dissolution of the civil union?**

---

NA

**33. If so, what financial claims can be made?**

---

NA

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

---

NA

**36. If so, what claims can be made?**

---

NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

---

NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

---

NA

**39. If so how?**

---

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

---

NA

**41. If so, how do they differ?**

---

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

---

NA

**44. If so, in what respect??**

---

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

---

NA

**46. If so, in what respect??**

---

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

NA

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

NA

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

NA

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

NA

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

NA

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

NA

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

NA

**56. Is changing gender a ground for divorce in your jurisdiction?**

No.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

NA

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

NA

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

## JURISDICTION

## United States, Arizona

Valid Date	11/19/18
Contributor Name	Caludia D. Work
Contributor Email	cwork@campbellazlaw.com
Contributor Firm	Campbell Law Group of Arizona

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

No.

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

No.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

No.

**9. If so, is this available to opposite sex couples?**

---

NA

**10. What are the significant differences (if any) from marriage?**

---

NA

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

NA

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

Arizona will only recognize common law marriages that were created in another jurisdiction according to the laws of that jurisdiction

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

ARS 8-103D has not been amended to be gender neutral despite marriage equality but there is no information that it is being used to discriminate against same sex couples : D. If all relevant factors are equal and the choice is between a married man and woman certified to adopt and a single adult certified to adopt, placement preference shall be with a married man and woman.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

Yes.

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

Yes.

**19. Is surrogacy legal in your jurisdiction?**

---

No.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

Yes.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

Our law is silent on gamete or embryo donation and, therefore, we require an adoption by the intended parents.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

Yes.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

Yes.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

Yes, through operation of the marital presumption pursuant to *McLaughlin v. McLaughlin* Decided: September 19, 2017.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

Probably. Arizona has no authority whether it will recognize a civil union as a marriage. Common law relationships are not "marriages" unless they comply with a common law marriage state's requirements to find a valid marriage. At that point, it would be recognized as a full marriage in AZ subject to all marital rights.

**27. If you have any further comments on the matters raised in this section, please add them below.**

As Arizona has no laws stating that civil unions are not recognized, there is the possibility of pushing arguments that they must be recognized in AZ for all purposes. Also, Arizona really has no Assisted Reproductive Technology laws, so we also have to get creative.

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

No.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

Division of joint and community property and debts, and spousal support (alimony).

**30. Do these claims differ in any way from those available to an opposite sex couple?**

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

Not specifically recognized.

**32. Can financial claims be made on dissolution of the civil union?**

NA

**33. If so, what financial claims can be made?**

NA

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

Yes.

**36. If so, what claims can be made?**


---

The court will enforce any express or implied contracts regarding pooled assets or resources, and will allow partition actions.

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**


---

No.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**


---

No.

**39. If so how?**


---

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**


---

Yes.

**41. If so, how do they differ?**


---

The birth mother has sole legal decision-making (custody) until a parentage order has been entered recognizing the second parent (generally father in the case of unmarried couples).

**42. If you have any further comments on the matters raised in this section, please add them below.**


---

Arizona only recognizes a biological or adopted parent as a parent outside of marriage, and within marriage, the marital presumption applies only to spouses of the birth mother.

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**


---

No.

**44. If so, in what respect??**


---

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

No.

**46. If so, in what respect??**

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

No.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

NA

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

Any age.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

A letter from a treating physician is required that indicates there has been some sort of surgical intervention. A court order may or may not also be required.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

No effect on legality of the existing marriage.

**56. Is changing gender a ground for divorce in your jurisdiction?**

No.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

There is no statutory change in the process, it simply may give rise to financial claims. For instance, there may be a waste claim made by the other spouse to recover expenditures of community income related to the transition.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

No.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

NA

## JURISDICTION

## United States, Florida

Valid Date	11/12/18
Contributor Name	Caryn M. Green
Contributor Email	cgreen@greenfamilylaw.net
Contributor Firm	Green Family Law, P.A.

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

None.

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

No.

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

No.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

No.

**9. If so, is this available to opposite sex couples?**

---

NA

**10. What are the significant differences (if any) from marriage?**

---

NA

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

NA

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

There is no distinction between the process for same sex couples and opposite sex couples; however, second-parent adoptions for unmarried couples requires a home study.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

No.

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

Yes.

**19. Is surrogacy legal in your jurisdiction?**

---

Yes.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

Yes.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

Typically a contractual agreement is involved, but there is no legal requirement to donate eggs or embryos. The donor is assumed to have relinquished all rights, unless there is an agreement to the contrary. See also, Florida Statute, section 742.14: Donation of eggs, sperm, or preembryos.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

Yes.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

Yes.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

The birth mother's wife would be included on the child's birth certificate and would automatically receive parental rights at such time.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

NA

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

No.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

The same as for opposite sex couples: equitable distribution, alimony, child support and/or attorneys' fees.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

NA

**32. Can financial claims be made on dissolution of the civil union?**

NA

**33. If so, what financial claims can be made?**

NA

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

NA

**36. If so, what claims can be made?**

NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

---

No.

**39. If so how?**

---

The law does not treat unmarried parents any differently from children of married parents; however, this assumes that both unmarried parents' parental status has been legally established (paternity, second-parent adoption, birth certificate, etc.).

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

---

No.

**41. If so, how do they differ?**

---

The rights of unmarried parents do not differ from married parents; however, this assumes that both unmarried parents' parental status has been legally established (paternity, second-parent adoption, birth certificate, etc.).

**42. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

---

No.

**44. If so, in what respect??**

---

Assuming the couple is married, they would receive the same treatment as opposite sex married couples for inheritance purposes.

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

---

No.

**46. If so, in what respect??**

---

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

---

No.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

---

Florida does not have an anti-discrimination law; however, many Florida counties and cities have enacted anti-discrimination ordinances (some just for the public sector, and some for both the public and private sectors).

**50. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

---

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

---

NA

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

---

In Florida, the Department of Motor Vehicles will not change the gender marker on your driver's license unless you have completed sex reassignment surgery. To change the gender marker on your driver's license, you must provide either a certified copy of your amended birth certificate, or a letter or affidavit from your attending physician certifying that you have completed sex reassignment surgery and that you are now the reassigned gender. To amend your Florida birth certificate, you must contact the Florida Department of Health, Office of Vital Statistics at 904/359-6900 to request an Application for Amended Birth Certificate and an Affidavit of Amendment to Certificate of Live Birth (form DH430). To complete your application, you must provide the Department with the following original documents (photo copies are not accepted):

- A completed Application for Amended Birth Certificate.
- A notarized Affidavit of Amendment to Certificate of Live Birth, form DH430. You must complete this form and then sign it in front of a notary public.

- A certified copy of the court order granting your name change under Florida law or a substantially similar law from another state.
- A sworn affidavit from the physician who performed your sex reassignment surgery. The physician must include his/her medical license number in the affidavit. The physician's affidavit must state that you have completed sex reassignment in accordance with appropriate medical procedures and that you are now considered to be a member of the reassigned gender. The medical records must be signed by the physician who performed the sex reassignment surgery. A sample physician's affidavit is included in Appendix F.
- You must pay the required amendment fee and the gender marker on your birth certificate will be amended to reflect your reassigned gender in accordance with Florida law.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

---

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

---

NA

**56. Is changing gender a ground for divorce in your jurisdiction?**

---

NA

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

---

Florida is a no-fault divorce state, so a gender change should have no bearing on divorce. The statutory factors that a court must consider for the various legal issues in a divorce would apply to any divorcing couple.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

No.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

Florida does not have an anti-discrimination law regarding transgender discrimination; however, cities and counties within Florida may have such anti-discrimination ordinance.

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

## JURISDICTION

## United States, Georgia

Valid Date	10/25/18
Contributor Name	Randall M. Kessler
Contributor Email	rkessler@ksfamilylaw.com
Contributor Firm	Randall M. Kessler

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

Sodomy recently decriminalized.

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

No.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

No.

**9. If so, is this available to opposite sex couples?**

---

NA

**10. What are the significant differences (if any) from marriage?**

---

NA

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

NA

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

Some judges interpret things differently.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

No.

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

Yes.

**19. Is surrogacy legal in your jurisdiction?**

---

Yes.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

Yes.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

Don't know.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

Yes.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

Yes.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

Yes, like a marriage between heterosexual couples.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

NA

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

---

No.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

---

Same as heterosexual divorce.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

---

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

---

No.

**32. Can financial claims be made on dissolution of the civil union?**

---

No.

**33. If so, what financial claims can be made?**

---

NA

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

---

No.

**36. If so, what claims can be made?**

---

NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

---

No.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

No.

**39. If so how?**

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

No.

**41. If so, how do they differ?**

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

No.

**44. If so, in what respect??**

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

No.

**46. If so, in what respect??**

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

No.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

NA

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

I think 18, but need counseling for over a year.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

Don't know. Judge must decide

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

Nothing.

**56. Is changing gender a ground for divorce in your jurisdiction?**

No.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

Not legally.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

No.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

## JURISDICTION

## United States, Indiana

Valid Date	01/17/19
Contributor Name	Melissa Avery
Contributor Email	mavery@bkrlaw.com
Contributor Firm	Broyles Kight & Ricafort PC

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

NA

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

NA

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

No.

**9. If so, is this available to opposite sex couples?**

NA

**10. What are the significant differences (if any) from marriage?**

NA

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

NA

**14. If you have any further comments on the matters raised in this section, please add them below.**

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

NA

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

NA

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

NA

**18. Can a sole homosexual person adopt in your jurisdiction?**

NA

**19. Is surrogacy legal in your jurisdiction?**

---

NA

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

NA

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

NA

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

NA

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

NA

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

NA

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

NA

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

NA

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

---

NA

**29. What financial claims can be made on separation or divorce for a same sex couple?**

---

NA

**30. Do these claims differ in any way from those available to an opposite sex couple?**

---

NA

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

---

NA

**32. Can financial claims be made on dissolution of the civil union?**

---

NA

**33. If so, what financial claims can be made?**

---

NA

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

---

NA

**36. If so, what claims can be made?**

---

NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

---

NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

---

NA

**39. If so how?**

---

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

---

NA

**41. If so, how do they differ?**

---

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

---

NA

**44. If so, in what respect??**

---

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

---

NA

**46. If so, in what respect??**

---

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

---

NA

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

---

NA

**50. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

---

NA

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

---

NA

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

---

NA

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

---

NA

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

---

NA

**56. Is changing gender a ground for divorce in your jurisdiction?**

---

NA

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

---

NA

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

NA

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

## JURISDICTION

## United States, Maine

Valid Date	10/26/18
Contributor Name	Dana Prescott
Contributor Email	dana@southernmainelaw.com
Contributor Firm	Prescott Jamieson & Murphy

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

No.

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

Not any longer in terms of the law.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

No.

**9. If so, is this available to opposite sex couples?**

---

NA

**10. What are the significant differences (if any) from marriage?**

---

The foreign marriages question is complex because that is not tested beyond US state marriages so not sure what might happen with a foreign marriage (and divorce) may depend on other rules of law.

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

NA

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

Not that I have seen but not a field I regularly practice in.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

No.

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

Yes.

**19. Is surrogacy legal in your jurisdiction?**

---

Yes.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

Yes.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

No.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

Need to be careful on these questions because Maine just adopted the Parentage Act and much of this is untested in the courts concerning embryos, for example.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

Yes.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

Yes.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

These questions really are still evolving legally so generally the MPA may control but there are some complex policy and legal issues under federal and state constitution, of example.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

NA

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

No.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

Same laws of divorce.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

NA

**32. Can financial claims be made on dissolution of the civil union?**

No.

**33. If so, what financial claims can be made?**

No civil unions.

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

NA

**36. If so, what claims can be made?**

NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

No.

**39. If so how?**

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

No.

**41. If so, how do they differ?**

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

No.

**44. If so, in what respect??**

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

No.

**46. If so, in what respect??**

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

But only if this question means legally married couples.

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

NA

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

Unknown but I would guess at least 18 age of majority without parental or court consent.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

I have not worked on that kind of case so unsure.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

NA

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

I do not know answer to 58.

**56. Is changing gender a ground for divorce in your jurisdiction?**

NA

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

Not sure on 60 as not yet tested in court.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

Yes.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

Broadly but few legal tests so far.

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

## JURISDICTION

## United States, Maryland

Valid Date	01/14/19
Contributor Name	Amira Khan
Contributor Email	akhan@offitkurman.com
Contributor Firm	Offit Kurman, PA

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

No.

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

No.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

Yes.

**9. If so, is this available to opposite sex couples?**

---

Yes.

**10. What are the significant differences (if any) from marriage?**

---

NA

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

Maryland does not recognize common law relationships.

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

No.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

No.

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

Yes.

**19. Is surrogacy legal in your jurisdiction?**

---

Yes.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

Yes.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

An embryo adoption contract is necessary to determine the parental rights of the donor

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

Yes.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

Yes.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

Maryland will name a married lesbian couple as the parents of a child born to them when the birth mother identifies her spouse at the hospital as her spouse and the child's other mother.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

Maryland does not recognize common law marriage.

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

---

No differences in same sex divorce.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

---

Same claims that can be made by heterosexual couples.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

---

There are limitations in the laws surrounding divorce have not been amended to incorporate circumstances unique to same-sex relationships; such as the definition of adultery, alimony factors regarding length of marriage, and property division that the couple acquired prior to the legalization of same sex couples.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

---

NA

**32. Can financial claims be made on dissolution of the civil union?**

---

NA

**33. If so, what financial claims can be made?**

---

NA

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

---

NA

**36. If so, what claims can be made?**

---

NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

---

NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

---

No.

**39. If so how?**

---

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

---

No.

**41. If so, how do they differ?**

---

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

---

No.

**44. If so, in what respect??**

---

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

---

No.

**46. If so, in what respect??**

---

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

---

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

---

It is unlawful to discriminate against a person for associating with a particular sexual orientation.

**50. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

---

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

---

NA

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

---

A licensed health care practitioner who has treated individual has determined that the person's sex designation should be changed because individual has undergone treatment appropriate for purpose of sex transition or diagnosed with intersex condition.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

---

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

---

Nothing.

**56. Is changing gender a ground for divorce in your jurisdiction?**

---

No.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

---

No.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

No.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

## JURISDICTION

## United States, Massachusetts

Valid Date	10/25/18
Contributor Name	Anne Berger
Contributor Email	Smallberger@gmail.com
Contributor Firm	Godson Legal Group

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

No.

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

No.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

No.

**9. If so, is this available to opposite sex couples?**

---

NA

**10. What are the significant differences (if any) from marriage?**

---

NA

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

NA

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

NA

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

NA

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

NA

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

NA

**19. Is surrogacy legal in your jurisdiction?**

---

NA

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

NA

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

NA

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

NA

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

NA

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

NA

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

NA

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

NA

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

---

NA

**29. What financial claims can be made on separation or divorce for a same sex couple?**

---

NA

**30. Do these claims differ in any way from those available to an opposite sex couple?**

---

NA

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

---

NA

**32. Can financial claims be made on dissolution of the civil union?**

---

NA

**33. If so, what financial claims can be made?**

---

NA

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

---

NA

**36. If so, what claims can be made?**

---

NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

---

NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

---

NA

**39. If so how?**

---

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

---

NA

**41. If so, how do they differ?**

---

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

---

NA

**44. If so, in what respect??**

---

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

---

NA

**46. If so, in what respect??**

---

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

NA

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

NA

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

NA

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

NA

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

NA

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

NA

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

NA

**56. Is changing gender a ground for divorce in your jurisdiction?**

NA

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

NA

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

NA

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

## JURISDICTION

## United States, Minnesota

Valid Date	11/14/18
Contributor Name	Brent Seymour
Contributor Email	seymourfamilylaw@att.net
Contributor Firm	Seymour Family Law

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

NA

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

NA

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

No, other than possible tax consequences.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

No.

**9. If so, is this available to opposite sex couples?**

---

NA

**10. What are the significant differences (if any) from marriage?**

---

NA

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

NA

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

I don't know because I don't practice in that area.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

No.

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

Yes.

**19. Is surrogacy legal in your jurisdiction?**

---

NA

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

NA

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

NA

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

NA

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

NA

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

NA

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

As long as they are married, the wife is a parent.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

NA

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

This is not my practice area.

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

No.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

The same as for a heterosexual couple. Child support, spousal support, division of property.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

Domestic partnerships existed before marriage was legalized. They are dissolved by divorce proceedings.

**32. Can financial claims be made on dissolution of the civil union?**

Yes.

**33. If so, what financial claims can be made?**

See above.

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

No.

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

Yes

**36. If so, what claims can be made?**

Child support. May be able to make Marvin claims - based on contract. It is a civil action.

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

No they are the same.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

No.

**39. If so how?**

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

No.

**41. If so, how do they differ?**

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

NA

**44. If so, in what respect??**

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

NA

**46. If so, in what respect??**

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

This is not my practice area.

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

NA

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

NA

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

NA

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

NA

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

NA

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

NA

**56. Is changing gender a ground for divorce in your jurisdiction?**

NA

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

NA

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

NA

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

This is not my practice area.

## JURISDICTION

## United States, New Jersey

Valid Date	10/25/18
Contributor Name	Madeline Marzano-Lesnevich
Contributor Email	mml@lmlawyers.com
Contributor Firm	Lesnevich, Marzano-Lesnevich, Trigg, O'Cathain & O'Cathain, LLC

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

No.

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

No.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

Yes.

**9. If so, is this available to opposite sex couples?**

---

Yes.

**10. What are the significant differences (if any) from marriage?**

---

Lack of equitable distribution. Although CU still are available in NJ I understand that they are not being used either by same sex or opposite sex couples since same sex marriage is permitted.

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

NA

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

No.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

No.

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

Yes.

**19. Is surrogacy legal in your jurisdiction?**

---

No.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

No.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

NA

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

I don't have sufficient info to answer this.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

NA

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

NA

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

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NA

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

NA

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

No.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

Same as a opposite sex divorce if married.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

By formal dissolution proceedings.

**32. Can financial claims be made on dissolution of the civil union?**

Yes.

**33. If so, what financial claims can be made?**

Fact specific.

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

NA

**36. If so, what claims can be made?**

NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

No.

**39. If so how?**

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

No.

**41. If so, how do they differ?**

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

NA

**44. If so, in what respect??**

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

NA

**46. If so, in what respect??**

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

NA

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

NA

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

NA

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

NA

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

NA

**56. Is changing gender a ground for divorce in your jurisdiction?**

NA

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

NA

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

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NA

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

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NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

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NA

## JURISDICTION

## United States, New York

Valid Date	10/13/18
Contributor Name	Nicholas W. Lobenthal
Contributor Email	nwlobenthal@teitler.com
Contributor Firm	Teitler & Teitler, LLP

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

No.

**4. If you have any further comments on the matters raised in this section, please add them below.**

A provision of New York's Penal Law criminalizing "consensual sodomy," N.Y. Penal Law sec. 130.38, was declared unconstitutional by New York's highest court in 1980 in *People v. Onofre*, 51 N.Y.2d 476, 415 N.E.2d 936, 434 N.Y.S.2d 947 (1980), and was repealed by the Legislature in 2000 by the Sexual Assault Reform Act, Ch. 1, sec. 6, 2000 N.Y. Laws.

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

No.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

---

No.

**9. If so, is this available to opposite sex couples?**

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No.

**10. What are the significant differences (if any) from marriage?**

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NA

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

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No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

NA

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

New York does recognize civil unions validly contracted in other jurisdictions.

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

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No.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

No.

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

Yes.

**19. Is surrogacy legal in your jurisdiction?**

---

No.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

NA

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

The burden is on the donor to establish a parental relationship. New York accords a statutory presumption that a child born during a marriage is the legitimate child of both parents. N.Y. Dom. Rel. Law secs. 24(1), 73, and the donor has no parental rights; this presumption has been extended to an unmarried woman who gives birth by artificial insemination, see *Matter of Adoption of Michael*, 166 Misc. 2d 973, 636 N.Y.S.2d 608 (Surr. Ct. Bronx County 1996), and to a same-sex couple, see *Christopher YY. v. Jessica ZZ.*, 159 A.D.3d 18, 69 N.Y.S.3d 887 (3d Dep't), leave to appeal denied, 31 N.Y.3d 909, 106 N.E.3d 750, 81 N.Y.S.3d 367 (2018). The presumption can be rebutted if, for example, sec. 73 (requiring that artificial insemination be performed by persons duly authorized to practice medicine and the wife and husband have consented in an acknowledged writing) is not complied with. See *Joseph O. v. Danielle B.*, 158 A.D.3d 767, 769-70, 71 N.Y.S.3d 549, \_\_\_ (2d Dep't 2018) (summarizing law).

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

No.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

No.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

The wife of a woman in a same-sex marriage who gives birth to a child following treatment at a clinic automatically acquires parental authority. See *Pavan v. Smith*, 137 S. Ct. 2075 (2017) (both parties to same-sex marriage are entitled to be listed on birth certificate of child born of the marriage through anonymous sperm donation); *Obergefell v.*

Hodges, 135 S. Ct. 2584, 2601, 2605 (2015) (Constitution entitles same-sex couples to civil marriage "on the same terms and conditions as opposite-sex couples" and the "constellation of benefits that the States have linked to marriage")

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

No. See *Brooke S.B. v. Elizabeth A.C.C.*, 28 N.Y.3d 1, 61 N.E.3d 488, 39 N.Y.S.3d 89 (2016) (non-biological, non-adoptive partner has standing to seek custody and visitation of child resulting from artificial insemination).

**27. If you have any further comments on the matters raised in this section, please add them below.**

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

No.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

In an action for divorce, claims may be made for maintenance (a/k/a spousal support or alimony), N.Y. Dom. Rel. Law sec. 236B(5-a), (6); child support, N.Y. Dom. Rel. Law secs. 236B(7), 240(1--b); and equitable distribution of marital property, N.Y. Dom. Rel. Law sec. 236B(5). In an action for a separation, claims may be made for maintenance (a/k/a spousal support or alimony), N.Y. Dom. Rel. Law sec. 236B(5-a), (6), and child support, N.Y. Dom. Rel. Law secs. 236B(7), 240(1--b). Equitable distribution is not available in an action for separation. See N.Y. Dom. Rel. sec. 236B(2)(a), (5)(a).

**30. Do these claims differ in any way from those available to an opposite sex couple?**

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

New York does not recognize civil unions contracted within the state. *Debra H. v. Janice R.*, 14 N.Y.3d 576, 612, 930 N.E.2d 184, 205, 904 N.Y.S.2d 263, 284 (2010) (Smith, J., concurring). However, New York does recognize civil unions validly contracted under the laws of other jurisdictions and does entertain actions to dissolve such unions. See, e.g., *O'Reilly-Morshead v. O'Reilly-Morshead*, 163 A.D.3d 1479, \_\_\_ N.Y.S.3d \_\_\_, 2018 WL 3567116 (4th Dep't Jul 25, 2018); *Dickerson v. Thompson*, 88 A.D.3d 121, 928 N.Y.S.2d 97 (3d Dep't 2011).

**32. Can financial claims be made on dissolution of the civil union?**

Yes.

**33. If so, what financial claims can be made?**

---

Claims that are recognized under the law of the jurisdiction where the civil union was contracted. See O'Reilly-Morshead v. O'Reilly-Morshead, 163 A.D.3d 1479, \_\_\_, \_\_\_ N.Y.S.3d \_\_\_, \_\_\_, 2018 WL 3567116, at \*2 (4th Dep't Jul 25, 2018)

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

Not applicable as to same-sex civil unions purportedly contracted in New York, as New York does not recognize civil unions purportedly contracted in the state. As to a same-sex civil union contracted in another jurisdiction, New York will follow the law of the other jurisdiction. See O'Reilly-Morshead v. O'Reilly-Morshead, 163 A.D.3d 1479, \_\_\_, \_\_\_ N.Y.S.3d \_\_\_, \_\_\_, 2018 WL 3567116, at \*2 (4th Dep't Jul 25, 2018) (for Vermont same-sex civil union, property to be distributed pursuant to Vermont law).

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

---

No.

**36. If so, what claims can be made?**

---

NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

---

NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

---

No.

**39. If so how?**

---

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

---

No.

**41. If so, how do they differ?**


---

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**


---

In response to items 39 and 40 above, common-law marriage was abolished in New York effective April 29, 1933. Ch. 606, 1933 N.Y. Laws. However, New York will recognize a common-law marriage if it is validly contracted in a jurisdiction that recognizes such a marriage. See, e.g., *Mott v. Duncan Petroleum Trans.*, 51 N.Y.2d 289, 414 N.E.2d 657, 434 N.Y.S.2d 155 (1980); *Holmes v. Maimonides Med. Ctr.*, 95 A.D.3d 831, 832, 943 N.Y.S.2d 573, 575 (2d Dep't 2012); *Baron v. Suissa*, 74 A.D.3d 1108, 906 N.Y.S.2d 50 (2d Dep't 2010). There appear to be no reported New York cases addressing financial claims that parties can make against each other upon dissolution of a common-law marriage. The New York City Administrative Code permits persons to register as domestic partners, but provides no framework for financial claims that domestic partners can make against each other upon termination of a domestic partnership, see N.Y.C. Admin. Code secs. 3-240 to -244, and there appear to be no reported cases addressing this issue.

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**


---

No.

**44. If so, in what respect??**


---

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**


---

No.

**46. If so, in what respect??**


---

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**


---

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**


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Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

New York State's Sexual Orientation Non-Discrimination Act, Ch. 2, 2002 N.Y. Laws, which took effect January 16, 2003, "prohibits discrimination based on actual or perceived sexual orientation in employment, housing, public accommodations, education, credit, and the exercise of civil rights." <https://ag.ny.gov/civil-rights/sonda-brochure>. It is codified in various sections of New York's Civil Rights Law, Education Law, and Executive Law. A victim of discrimination may file either (1) a charge of discrimination with the New York State Division of Human Rights or a local human rights agency or (2) a complaint in New York State court. A victim may be awarded, inter alia, compensatory damages for pain and suffering and lost wages. New York City's Human Rights Law, codified at N.Y.C. Admin. Code sec. 8-107, offers wider protection and allows for awards of punitive damages and attorneys fees.

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

New York appears not to have a minimum age to change gender. However, New York's Medicaid program requires gender reassignment surgery to be covered "for an individual who is 18 years of age or older and has letters from two qualified New York State licensed health professionals who have individually assessed the individual and are referring the individual for surgery." 18 NYCRR sec. 505.2(l)(3)(i). Surgery may be covered in certain circumstances for a person under the age of 18 years. See N.Y. State Dep't of Health, N.Y. State Medicaid Update, vol. 33, no. 1 (Jan. 2017), available at [https://www.health.ny.gov/health\\_care/medicaid/program/update/2017/2017-01.htm#transgender](https://www.health.ny.gov/health_care/medicaid/program/update/2017/2017-01.htm#transgender).

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

To change the gender marker on a birth certificate for a person born in New York State outside New York City, all that is required is a certification from a medical provider stating that the applicant is undergoing appropriate clinical treatment. N.Y. State Atty. Gen., LGBT Rights, available at <https://ag.ny.gov/civil-rights/lgbt-rights> (visited Oct. 12, 2018). To change the gender marker on a birth certificate for a person born in New York City, a person must submit an affidavit from a health-care provider stating that the gender change accurately reflects the person's gender identity. See N.Y. City Dep't of Health & Mental Hyg., Off. of Vital Recs., Changing the Gender Marker on a NYC Birth Certificate: Affirmation/Affidavit for Providers, available at <https://www1.nyc.gov/assets/doh/downloads/pdf/vr/gendermarker.pdf> (visited Oct. 13, 2018). To change gender on a driver license, proof of gender change "can be in the form of a written statement from a physician, psychologist, psychiatrist or other appropriate professional that is printed on letterhead. The statement must certify that one

gender is your main gender and that you identify as male or female. An appropriate professional can include but is not limited to a Life Counselor, a Clinical Social Worker or other professional who is overseeing the change in gender." N.Y. State Dep't of Motor Vehicles, Change Information on DMV Documents, available at <https://dmv.ny.gov/address-change/change-your-name-or-non-address-information-dmv-documents> (visited Oct. 13, 2018). A court order is required for a name change. See N.Y. Civ. Rights Law secs. 60-65. New York State appears not impose any specific investigation requirements before a person can change gender.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

The legal status of the marriage under New York law does not automatically change when one party transitions.

**56. Is changing gender a ground for divorce in your jurisdiction?**

No.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

The reported case law is not sufficient to determine how changing gender affects the divorce process.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

Yes.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

Although the New York State Human Rights Law, N.Y. Exec. Law secs. 290-301, does not mention transgender persons, the New York State Division of Human Rights has issued regulations prohibiting discrimination based on gender identity. See 9 NYCRR sec. 466.13. In addition, the New York City Administrative Code lists gender identity as a protected class. See N.Y.C. Admin. Code sec. 8-102(23),

**60. If you have any further comments on the matters raised in this section, please add them below.**

In further response to item 60, in the case of *B v. B*, 78 Misc. 2d 112, 355 N.Y.S.2d 712 (Sup. Ct. Kings County 1974), the plaintiff sought an annulment of the marriage on the ground that the defendant claimed to be man while actually a woman. The reported decision -- a fascinating snapshot of how marriage and gender reassignment were viewed in 1974 -- did not reach the merits of the annulment action, but denied defendant's motion for leave to amend the

answer to assert a counterclaim for divorce and denied the plaintiff's cross-motion for a physical examination of the defendant without prejudice.

## JURISDICTION

## United States, Tennessee

Valid Date	10/25/18
Contributor Name	Marissa Russ
Contributor Email	marissa@mtrfamilylaw.com
Contributor Firm	MTR Family Law, PLLC

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

NA

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

NA

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

No.

**9. If so, is this available to opposite sex couples?**

---

No.

**10. What are the significant differences (if any) from marriage?**

---

Depending on the individual judge couples may be treated differently if same sex.

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

NA

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

Could be more hurdles but not definitive.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

Yes.

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

Yes.

**19. Is surrogacy legal in your jurisdiction?**

---

Yes.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

Yes.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

People are not really doing surrogacy contracts here in our jurisdiction because there is such a strong preference towards biological parents and rights.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

Yes.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

Yes.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

Through adoption not automatically.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

NA

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

Probably for many of the above scenarios the parent would not willing disclose (unless necessary) the fact they were homosexual.

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

No.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

The same as in heterosexual marriages.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

NA

**32. Can financial claims be made on dissolution of the civil union?**

No.

**33. If so, what financial claims can be made?**

NA

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

NA

**36. If so, what claims can be made?**

NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

No.

**39. If so how?**

Depends on the judge.

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

Yes.

**41. If so, how do they differ?**

Until parentage is established you have no rights.

**42. If you have any further comments on the matters raised in this section, please add them below.**

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

No.

**44. If so, in what respect??**

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

NA

**46. If so, in what respect??**

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

NA

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

NA

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

I do not know.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

NA

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

NA

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

NA

**56. Is changing gender a ground for divorce in your jurisdiction?**

NA.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

NA

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

NA

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

## JURISDICTION

## United States, Virginia

Valid Date	10/26/18
Contributor Name	Peter W Buchbauer
Contributor Email	Pbuchbauer@buchbauermcguire.com
Contributor Firm	Buchbauer & McGuire, P.C.

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

There are statues in the Code which ostensibly criminalize homosexual behavior but there is Virginia Supreme Court decision ruling them unconstitutional under Lawrence v. Texas

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

No.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

---

No.

**9. If so, is this available to opposite sex couples?**

---

No.

**10. What are the significant differences (if any) from marriage?**

---

No civil unions.

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

No.

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

Virginia does not recognize common law marriages.

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

Religious organization may not condone same sex couples for adoptive placements for religious reasons.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

Yes.

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

No.

**19. Is surrogacy legal in your jurisdiction?**

---

Yes.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

Yes.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

None. We have specific assisted reproduction statutes. The statutes reference a man and woman, married to one another, but the Code has not been amended since the law has changed incident to US Supreme Court rulings authorizing same sex marriages.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

Yes.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

Yes.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

Yes, I believe the result will be the same for same sex and opposite sex couples and individuals.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

Civil unions and common law marriages are not recognized.

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

---

No.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

---

Same as in an opposite sex marriage.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

---

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

---

Not recognized.

**32. Can financial claims be made on dissolution of the civil union?**

---

No.

**33. If so, what financial claims can be made?**

---

None, not recognized.

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

No, unavailable.

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

---

No.

**36. If so, what claims can be made?**

---

NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

No.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

Yes.

**39. If so how?**

Unmarried must commence their litigation in a court not of record as opposed to married individuals who may elect between the courts, however, the law applicable to both is the same.

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

No.

**41. If so, how do they differ?**

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

No.

**44. If so, in what respect??**

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

No.

**46. If so, in what respect??**

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

Sexual orientation is not a protected class under state law.

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

No specific statute. I presume age 18.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

No specific statutes apply but I know of cases of gender reassignment.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

NA

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

NA

**56. Is changing gender a ground for divorce in your jurisdiction?**

No.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

---

No

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

No.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

## JURISDICTION

## United States, Washington State

Valid Date	10/25/18
Contributor Name	David B. Starks
Contributor Email	dstarks@mckinleyirvin.com
Contributor Firm	McKinley Irvin, PLLC

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

NA

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

No.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

Yes.

**9. If so, is this available to opposite sex couples?**

---

Yes.

**10. What are the significant differences (if any) from marriage?**

---

1. "Domestic Partnership" was Washington's initial "everything but marriage" set of laws in the mid to late 2000s, and it was an open secret that it was just a placeholder for ultimately recognizing same-sex marriage. The DPA is all but dead with the recognition of marriage itself. But does remain on the books, for same sex and opposite sex couples. It is now limited to a certain age cohort (one partner must be over 62). As a practical matter, I can say that I have not had a DP case walk into my office since Washington's voters approved same-sex marriage.

2. Since the mid 1900s Washington has recognized "committed intimate relationships" (previously meretricious relationships) that operate in many ways like a common law marriage might in other jurisdictions. CIRs are available to same sex and opposite sex couples.

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

Yes.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

See #14 above.

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

A court in a CIR case cannot: (1) award alimony, (2) award attorney fees, or (3) invade the separate property of one party and award it to the other.

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

No.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

No.

**18. Can a sole homosexual person adopt in your jurisdiction?**

Yes.

**19. Is surrogacy legal in your jurisdiction?**

Yes.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

Yes.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

NA

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

NA

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

Yes.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

Yes.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

Automatically.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

No.

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

---

No.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

---

There is no difference in the financial claims that can be made. All assets are before the court for division, both separate and community. Alimony is available. Payment of attorneys' fees is available.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

---

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

---

DPs (discussed earlier) are dissolved by the family court in the same way marriage are dissolved.

**32. Can financial claims be made on dissolution of the civil union?**

---

Yes.

**33. If so, what financial claims can be made?**

---

The same financial claims as in a marriage.

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

They are available, and there is no difference.

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

---

Yes.

**36. If so, what claims can be made?**

---

In a CIR (discussed earlier), the assets accumulated during the relationship are presumptively "community-like" in nature. Any asset for which the presumption is not overcome is divisible.

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

---

No.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

---

No.

**39. If so how?**

---

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

---

Yes.

**41. If so, how do they differ?**

---

Washington has adopted the UPA. To the extent parentage must be established prior to certain rights being recognized under the UPA, that must be accomplished. It need not be a legal action. Being on the birth certificate, for instance, is sufficient to be recognized as the parent of a child, regardless of marital status.

**42. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

---

No.

**44. If so, in what respect??**

---

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

No.

**46. If so, in what respect??**

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

NA

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

NA

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

NA

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

NA

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

---

NA

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

---

NA

**56. Is changing gender a ground for divorce in your jurisdiction?**

---

NA

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

---

Washington is a no-fault divorce state, so while a gender change certainly may lead to a divorce more often than not, it is not a "grounds" for divorce. The divorce process itself would be no different.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

NA

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

## JURISDICTION

## Argentina

Valid Date	05/28/19
Contributor Name	Fabiana Quaini
Contributor Email	fabiana@quaini.com
Contributor Firm	Estudio Quaini

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

No.

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

There are no differences.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

Yes.

**9. If so, is this available to opposite sex couples?**

---

Yes.

**10. What are the significant differences (if any) from marriage?**

---

Difference concerns inheritance rights.

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

Yes.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

No differences.

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

Differences concern inheritance rights, no others.

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

Adoption in our country is not easy for everybody. In my opinion same sex couples will have more problems because judges will not consider them.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

No.

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

Yes.

**19. Is surrogacy legal in your jurisdiction?**

---

Yes.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

Yes.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

We do not terminate the parental relationship between the donor and the child. We use consents. Donor has not relationship with the child.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

No.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

No.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

We sign a consent, we do not talk in my country about parental authority, it is a common law concept. However her wife will be consider the mother too automatically.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

Not at all.

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

There is no difference at all.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

There is no difference at all with any other couple.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

There is no difference at all.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

The relationship can be dissolved by notification a part send to the other, mutual agreement, death, a part get married or has a new civil union.

**32. Can financial claims be made on dissolution of the civil union?**

Yes.

**33. If so, what financial claims can be made?**

They must be together for at least 2 years. Alimony, compensation and it will depend on the agreement signed if any.

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

There is no difference at all.

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

Yes.

**36. If so, what claims can be made?**

It depends law will apply to the relationship.

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

There is no difference at all.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

No.

**39. If so how?**

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

No.

**41. If so, how do they differ?**

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

No.

**44. If so, in what respect??**

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

No.

**46. If so, in what respect??**

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

No.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

NA

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

Any age.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

Only if there is a child who has not the appropriate age to decide. Any person can change their gender going to the Civil Registry.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

Nothing at all.

**56. Is changing gender a ground for divorce in your jurisdiction?**

No.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

NA

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

No.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

## JURISDICTION

## Chile

Valid Date	10/11/18
Contributor Name	Daniela Horvitz Lennon
Contributor Email	dhorvitz@horvitz.cl
Contributor Firm	Horvitz & Cia

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

No.

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

No.

**6. If so, are there any differences between opposite sex and same sex marriages?**

NA

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

No.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

Yes.

**9. If so, is this available to opposite sex couples?**

---

Yes.

**10. What are the significant differences (if any) from marriage?**

---

Are different contracts with different names. No adoption is allowed for same sex unions. The terms and ways to end marriage an civil union are different as well.

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

Opposite sex facto relationship have been recognized as community in some jurisprudence.

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

Facto relationship have no legal regulation, thus no protection at all but some rare jurisprudence. Then, the differences are many, because civil unions have legal status.

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

No.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

NA

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

No.

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

Yes.

**19. Is surrogacy legal in your jurisdiction?**

---

No.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

NA

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

NA

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

No.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

Yes.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

No.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

No. Mother has to be a woman and father a man. In birth certificate can't appear same sex couple acting as parents.

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

NA

**29. What financial claims can be made on separation or divorce for a same sex couple?**

Economical compensation in a very similar way than the one apply in divorce of opposite sex marriage.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

Yes. terms are different.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

By judgment.

**32. Can financial claims be made on dissolution of the civil union?**

Yes.

**33. If so, what financial claims can be made?**

Is named "compensación económica" and is similar to the one that proceed in divorce.

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

No.

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

No.

**36. If so, what claims can be made?**

NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

No.

**39. If so how?**

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

No.

**41. If so, how do they differ?**

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

No.

**44. If so, in what respect??**

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

No.

**46. If so, in what respect??**

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

Our Constitution orders it, and consequently specific laws, like labor laws and a special law named "Ley Zamudio" forbade and penalize this kind of actions.

**50. If you have any further comments on the matters raised in this section, please add them below.**

This point is a main discussion in this days, since the fact that same sex couples can't adopt, nor marry, is consider against the principle consecrated in our Constitution.

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

14 years old.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

Until 3 weeks ago, was a civil procedure with no specific law and then subject to the judge criteria. · weeks ago a new law was passed and now all the procedure is regulated.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

Still pending this discussion

**56. Is changing gender a ground for divorce in your jurisdiction?**

No.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

---

"Homosexual behavior" is a reason to get divorce, so changing gender could be claim under this causal.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

Yes.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

Shouldn't take place. No discrimination is allowed regarding sex, age, condition, religion, ethnic...

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

## JURISDICTION

## South Africa

Valid Date	11/19/18
Contributor Name	Zenobia Du Toit
Contributor Email	bridget@mdtcinc.co.za
Contributor Firm	Miller du Toit Cloete Inc

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

No.

**4. If you have any further comments on the matters raised in this section, please add them below.**

No.

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

Same sex marriage may only occur in terms of the Civil Union Act 17 of 2006 whereas same sex marriage can occur in terms of both the Civil Union Act 17 of 2006 and the 25 of 1961.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

---

Yes.

**9. If so, is this available to opposite sex couples?**

---

Yes.

**10. What are the significant differences (if any) from marriage?**

---

No.

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

No. However, in certain circumstances for example in relation to claims relating to pensions and upon a partner having died in a motor car accident, claims arising from such a relationship have been recognised.

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

Not applicable as common law and facto relationship are not recognised in South Africa.

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

NA

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

No.

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

Yes.

**19. Is surrogacy legal in your jurisdiction?**

---

Yes.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

Yes.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

Egg and sperm donation is anonymous in South Africa, thus no requirements need to be met in order to terminate the relationship between the donor and child. Further, where sperm or embryo's is donated for purposes of surrogacy, the child born of said surrogacy agreement is automatically the child of the commissioning parent or parents and therefore there is no need to terminate any parental relationship.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

Yes.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

Yes.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

Parental rights and responsibilities will be acquired through registration of the woman as the child's guardian at the Department of Home Affairs when registration of her birth certificate occurs.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

No.

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

---

No.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

---

Personal Maintenance Claims Proprietary claims depending on the applicable regime.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

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No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

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The relationship must be dissolved by order of the court.

**32. Can financial claims be made on dissolution of the civil union?**

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Yes.

**33. If so, what financial claims can be made?**

---

Same as upon divorce, but there may be an agreement in terms of the legal requirements and which extensively regulates the parties' financial relationship regarding proprietary claims.

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

No.

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

---

No.

**36. If so, what claims can be made?**

Unless there is a written agreement or a commercial partnership or a claim for unjust enrichment, no claims can be made.

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

No.

**39. If so how?**

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

Yes.

**41. If so, how do they differ?**

Section 21 of the Children's Act 38 of 2005 specifies in what circumstances an unmarried father may acquire parental rights and responsibilities including guardianship. If the unmarried father meets the criteria he automatically acquires these rights and responsibilities.

**42. If you have any further comments on the matters raised in this section, please add them below.**

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

Yes.

**44. If so, in what respect??**

Opposite sex couples can inherit from their partners intestate even if they are not in a civil union.

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

No.

**46. If so, in what respect??**

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

The Constitution along with the Promotion of equality and prevention of unfair discrimination act prohibit discrimination on the basis of sexual orientation. Sanctions apply.

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

There is no legally prescribed minimum age.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

A person must have undergone medical or surgical treatment or be intersex to qualify for legal change of gender. Psychiatric investigation will be need in order to qualify for the medical or surgical treatment.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

Nothing.

**56. Is changing gender a ground for divorce in your jurisdiction?**

No.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

No.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

No

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

Discrimination based on the status of being trans is not explicitly prohibited, however, discrimination based on gender is prohibited in terms of the Constitution and the Promotion of Equality and Prevention of Unfair Discrimination Act.

**60. If you have any further comments on the matters raised in this section, please add them below.**

NA

## JURISDICTION

## Australia

Valid Date	06/14/19
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**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

No.

**4. If you have any further comments on the matters raised in this section, please add them below.**

Gay panic defence has been abolished as a defence in criminal law across Australia. In several Australian jurisdictions, historical homosexual convictions have been expunged.

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

Yes. The solemnisation of marriages in Australia is undertaken by ministers of religion and authorised celebrants. A minister of religion may refuse to solemnise any marriage. A religious marriage celebrant may refuse to solemnise a marriage if the celebrant's religious beliefs do not allow the celebrant to solemnise the marriage.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

## 8. Is there a civil union type scheme for same sex couples in your jurisdiction?

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Yes. ACT – Domestic Relationships Act 1994 and Civil Unions Act 2012. New South Wales – Relationships Register Act 2010. Queensland – Civil Partnerships Act 2011. South Australia – Relationships Register Act 2016. Tasmania – Relationships Act 2003. Victoria – Relationships Act 2008

## 9. If so, is this available to opposite sex couples?

---

Yes.

## 10. What are the significant differences (if any) from marriage?

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The difference is in the form of ceremony. For example, under the *Relationships Register Act 2016 (SA)*, an application for registration is made in the form approved by the Registrar of Births, Deaths and Marriages accompanied by an appropriate statutory declaration. Registration occurs after a cooling off period and does not occur from the making of a ceremony.

## 11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?

---

Yes.

## 12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?

---

No.

## 13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.

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One has to make out various criteria. For example, that the relationship was at least two years in duration, or there was a child, or one party made substantial contributions, and failure to recognise these would lead to injustice. Otherwise, the law applying to the financial relationships between such couples is essentially the same. For couples in Western Australia, there is a requirement that one or both parties were resident in Western Australia on the day on which the application was made and that as an alternative to those substantial contributions, both parties have resided in Western Australia for at least one-third of the duration of their de facto relationship. There is no ability to split superannuation for de facto couples in Western Australia.

## 14. If you have any further comments on the matters raised in this section, please add them below.

---

NA

### 15. Is it possible for a same sex couple to adopt a child in your jurisdiction?

Yes, throughout Australia adoption by same-sex couples is legal.

### 16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?

Not for domestic adoption. Intercountry adoption can be considerably more difficult for same-sex couples due to barriers to such adoption in other countries.

### 17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?

No.

### 18. Can a sole homosexual person adopt in your jurisdiction?

Australian Capital Territory – Yes Adoption Act 1993. New South Wales – Yes Adoption Act 2000. Northern Territory – Yes, if the child is under the guardianship of the minister and the minister is satisfied that there is exceptionally circumstances that make it desirable to do so: Adoption of Children Act 1994. Queensland – Ordinarily, no: Adoption Act 2009. South Australia – Not for a single person unless there are special circumstances or other prescribed factors: Adoption Act 1988. Tasmania – An adoption may be made in favour of a single person where there are special circumstances: Adoption Act 1988. Victoria – Only with some difficulty can an adoption order be made in favour of a single person: Adoption Act 1984. Western Australia – Yes, Adoption Act 1994.

### 19. Is surrogacy legal in your jurisdiction?

ACT – Yes, altruistic for couples: Parentage Act 2004. There is an offence in the ACT for residents undergoing commercial surrogacy overseas. New South Wales – Yes, altruistic: Surrogacy Act 2010. There are offences for those ordinarily resident in or domiciled in New South Wales and undergoing commercial surrogacy overseas. Northern Territory – There are no laws in the Northern Territory concerning surrogacy. Therefore surrogacy is legal. However, there is no ability to transfer parentage in the Northern Territory. The only IVF clinic in the Northern Territory will not assist in surrogacy matters. As of June 2019 the Northern Territory is reviewing proposed laws concerning surrogacy which are likely to regulate altruistic surrogacy and criminalise commercial surrogacy. Queensland – Yes, altruistic surrogacy only: Surrogacy Act 2010. There are offences for engaging in commercial surrogacy overseas. South Australia – Yes, altruistic surrogacy, but not available for single intended parents: Family Relationships Act 1975. There may be an offence for engaging in commercial surrogacy overseas. Tasmania – Yes, for Tasmanian residents, altruistic only: Surrogacy Act 2012. Western Australia – altruistic surrogacy is available for heterosexual couples, single women and female same-sex couples. It is not available for single men and same-sex male couples: Surrogacy Act 2008. An offence may be committed by Western Australian residents in undergoing commercial surrogacy overseas. Western Australian residents cannot obtain advice from Western Australian lawyers if they propose to enter into a commercial surrogacy arrangement (whether local or overseas). Victoria – Yes, altruistic only: Assisted Reproductive Treatment Act 2008, Status of Children Act 1974.

## 20. If so, can a same sex couple gain parentage for a child through surrogacy?

ACT – Yes. New South Wales – Yes. Northern Territory – No. Queensland – Yes. South Australia – Yes. Tasmania – Yes. Victoria – Yes. Western Australia – Yes if female. No if male.

## 21. Is gamete and/or embryo donation legal in your jurisdiction?

Yes, provided that it is altruistic.

## 22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?

Ordinarily the donor is not considered a parent. There is therefore no requirement to terminate the parental relationship. As of June 2019, there is an outstanding case before the High Court which may determine whether a known sperm donor to a single woman is a parent. Queensland – A known sperm donor to a single woman has been determined to be a parent, albeit one with no rights or responsibilities. Northern Territory – The laws in the Northern Territory may have the same outcome concerning a known sperm donor to a single woman as has occurred in Queensland, due to the drafting of the legislation. Western Australia – Although a donor (whether sperm, egg or embryo) is not a parent, there is a requirement in any surrogacy arrangement that the donor is a party to the arrangement. Across Australia – The manner of termination of any parental rights of the donor is either by way of a parentage order concerning surrogacy, or an adoption order. A parenting order under the Family Law Act may remove the parental responsibility of the donor, while the donor remains a parent at law.

## 23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?

Yes. See answer to Q22. If the same-sex couple is female, then ordinarily they will be considered to be the parents under parentage presumptions across Australia. The donor will not be considered to be a parent.

## 24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?

Yes. See answers to Q22 and Q23.

## 25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.

Yes, by virtue of section 60H of the Family Law Act. This is provided that the artificial conception procedure took place during the relationship or marriage, and both consented to the procedure.

## 26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.

No.

**27. If you have any further comments on the matters raised in this section, please add them below.**

What is defined as commercial surrogacy varies from State to State. Who is a parent remains to a degree an uncertain and changing area of law.

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

No.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

Application for a division of property, for declarations of interest in property, or for maintenance of a party to the marriage or relationship, or for the payment of child support.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

ACT – A civil union is ended by the death or marriage of one of the parties, giving 12 months termination notice to the Registrar of Births, Deaths and Marriages or if that is not possible, that it is not the intention of both parties to be in the civil union by way of court order: Civil Unions Act 2012. New South Wales – Registered relationships are revoked on the death or marriage of one of the parties or after giving 90 days' notice to the Registrar of Births, Deaths and Marriages: Relationships Register Act 2010. Northern Territory – Not applicable. Queensland – Civil partnerships are ended by the death or marriage of either party or by termination of application – being terminated by the Registrar of Births, Deaths and Marriages after a 90 day cooling off period following an application being made: Civil Partnerships Act 2011. South Australia – Registered relationships end on the death or marriage of one of the parties or by making a revocation application, with a 90 day cooling off period to the Registrar of Births, Deaths and Marriages: Relationships Register Act 2016. Tasmania – A deed of revoked by the death or marriage of either of the parties, an order of a court or after a 90 relationship day cooling off period by the Registrar of Births, Deaths and Marriages on a revocation application: Relationships Act 2003. Victoria – Registered relationships are revoked on the death or marriage of either party or by revocation by the Registrar of Births, Deaths and Marriages after a 90 day cooling off period, or by a court: Relationships Act 2008.

**32. Can financial claims be made on dissolution of the civil union?**

A civil union or civil partnership is deemed to be a de facto relationship under the Family Law Act. Any claim for property settlement or spousal maintenance must be filed within 2 years of separation of the parties (irrespective of when the civil union or civil partnership is dissolved or revoked), subject to any further time being granted in special circumstances where there is hardship.

**33. If so, what financial claims can be made?**

---

Property settlement, property declaration and spousal maintenance.

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

No.

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

---

Yes.

**36. If so, what claims can be made?**

---

Property settlement, property declaration and spousal maintenance.

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

---

They are the same.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

---

No, except for Western Australia. In Western Australia the children of unmarried couples are dealt with under State law, not Federal law. The requirements of the Family Court Act 1997 (WA) are broadly similar to the Family Law Act 1975 (Cth).

**39. If so how?**

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See answer to Q38.

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

---

No.

**41. If so, how do they differ?**

---

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

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NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

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No.

**44. If so, in what respect??**

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NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

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No.

**46. If so, in what respect??**

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NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

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NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

---

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

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Federal Law - It is unlawful to discriminate in work, education, goods services and facilities, accommodation, land and clubs on the ground of the other person's sex, sexual orientation, gender identity, intersex status, marital relationships status, pregnancy or potential pregnancy or breastfeeding: Sex Discrimination Act 1984. New South Wales – It is unlawful to discriminate in work, education, provision of goods and services on the grounds of transgender, marital or domestic status, disability or homosexuality. There are exceptions for charities and religious bodies: Anti-Discrimination Act 1977. Northern Territory – It is unlawful to discriminate on various bases including sex, sexuality, marital status, pregnancy, parenthood in the grounds of education, work, accommodation, goods services and facilities. There are exemption in work for religious educational institutions: Anti-Discrimination Act 1992. Australian Capital Territory – It is unlawful to discriminate in work, education, access to premises, goods, services and facilities and accommodation on bases including breastfeeding, disability gender identity, intersex status, genetic information,

parent, family, carer or kinship responsibilities, record of a person's sex having been altered under the Births Deaths and Marriages Registration Act or a similar law, sex, sexuality: Discrimination Act 1991. Queensland – It is unlawful to discriminate on the basis of various attributes including sex, relationship status, pregnancy, parental status, breastfeeding, lawful sexual activity, gender identity, sexuality and family responsibilities in the areas of work, education, goods and services and accommodation amongst others. It is lawful for someone providing assisted reproductive technology services to discriminate on the basis of relationship status or sexuality: Anti-Discrimination Act 1991. Following the removal of exemptions under regulations to the Sex Discrimination Act 1984 (Cth) it is unlikely that this exemption is valid. There are exemptions for employment in religious schools. South Australia – It is unlawful to discriminate on the ground of sex, gender identity, sexual orientation and intersex status in work and the provision of goods, services and accommodation, although there are exemptions for religious bodies: Equal Opportunity Act 1984. Tasmania – It is unlawful to discriminate on various attributes including sexual orientation, lawful sexual activity, gender, gender identity, intersex variations of sex characteristics, marital status, relationship status, pregnancy, breastfeeding, parental status, family responsibilities in the areas of employment, education and training, provisions of facilities, goods and services and accommodation amongst others. There are exemptions for religious belief: Anti-Discrimination Act 1998. Victoria – Discrimination is unlawful in various places including gender identity, lawful sexual activity, marital status, parental status or status of carer, pregnancy, sex or sexual orientation and areas such as work, education, sport, access to public premises and the provision of goods and services. Exemptions provided to religious bodies: Equal Opportunity Act 2010. Western Australia – It is unlawful to discriminate on the grounds of sex, marital status, pregnancy or breastfeeding, gender history grounds, family responsibility or family status, sexual orientation amongst others in various ways including work, education, provision of goods, services and facilities. There are religious exceptions, for example schools established for religious purposes: Equal Opportunity Act 1984. Surrogacy is not available to single men or male couples: Surrogacy Act 2008.

## **50. If you have any further comments on the matters raised in this section, please add them below.**

NA

## **51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes. Australian Capital Territory – A statement is required by a doctor or a psychologist certifying the person has received appropriate clinical treatment for alteration of a person's sex or as an intersex person: Births, Deaths and Marriages Registration Act 1997. New South Wales – Two doctors must verify that the person has undergone a sex affirmation procedure: Births, Deaths and Marriages Registration Act 1995. Northern Territory – The application is accompanied by a statement by a medical practitioner or a psychologist certifying the person has received appropriate clinical treatment in relation to the adult's sex or gender or as an intersex person: Births, Deaths and Marriages Registration Act 1996. Queensland – An application for reassignment of sex must be accompanied by statutory declarations by two doctors verifying the person has undergone sexual reassignment surgery or a recognition certificate: Births, Deaths and Marriages Registration Act 2003. South Australia – The Registrar of Births, Deaths and Marriages needs to be satisfied that the applicant has undertaken a sufficient amount of appropriate clinical treatment in relation to their sex or gender identity: Births, Deaths and Marriages Registration Act 1996. Tasmania – The application is to be accompanied by a statutory declaration from two medical practitioners verifying that the person has undergone sexual reassignment surgery or under a recognition certificate: Births, Deaths and Marriages Registration Act 1999. Victoria – A person must have undergone sex affirmation surgery and have statutory declarations from two doctors who performed the surgery or provided other medical treatment to the application in

connection with the applicant's transsexualism. Interstate recognition certificates are recognised: Births, Deaths and Marriages Registration Act 1996. Western Australia – Where a person has undergone a reassignment procedure that may apply to the Gender Reassignment Board for a recognition certificate: Gender Reassignment Act 2000.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

18. It is also possible for parents to change the gender in each jurisdiction for any child under 18.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

See answer concerning adults under Q51.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

It endures.

**56. Is changing gender a ground for divorce in your jurisdiction?**

No.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

It makes no difference to the divorce process.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

It varies. See answer to Q48 and Q49.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

See answer to Q48 and Q49.

**60. If you have any further comments on the matters raised in this section, please add them below.**

NA

## JURISDICTION

## China

Valid Date	08/13/18
Contributor Name	Ningning Zhao
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**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No.

**2. If so, what are the penalties?**

No specific legal stipulations on penalty but not protected by law.

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

No.

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

No.

**6. If so, are there any differences between opposite sex and same sex marriages?**

NA

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

No.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

No.

**9. If so, is this available to opposite sex couples?**

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NA

**10. What are the significant differences (if any) from marriage?**

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NA

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

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NA

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

NA

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

NA

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

NA

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

NA

**18. Can a sole homosexual person adopt in your jurisdiction?**

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NA

**19. Is surrogacy legal in your jurisdiction?**

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NA

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

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NA

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

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NA

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

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NA

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

NA

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

NA

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

NA

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

NA

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

---

NA

**29. What financial claims can be made on separation or divorce for a same sex couple?**

---

NA

**30. Do these claims differ in any way from those available to an opposite sex couple?**

---

NA

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

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NA

**32. Can financial claims be made on dissolution of the civil union?**

---

NA

**33. If so, what financial claims can be made?**

---

NA

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

---

NA

**36. If so, what claims can be made?**

---

NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

---

NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

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NA

**39. If so how?**

---

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

---

NA

**41. If so, how do they differ?**

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NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

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NA

**44. If so, in what respect??**

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NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

---

NA

**46. If so, in what respect??**

---

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

NA

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

NA

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

NA

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

NA

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

NA

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

NA

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

NA

**56. Is changing gender a ground for divorce in your jurisdiction?**

NA

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

NA

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

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NA

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

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NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

## JURISDICTION

## Hong Kong

Valid Date	09/05/18
Contributor Name	Winnie Chow
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Contributor Firm	CRB

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

Yes.

**2. If so, what are the penalties?**

Ranges from 2 years to life.

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

Yes mostly related to homosexual buggery to include buggery with another male below 16, gross indecency, and procurement of the above.

**4. If you have any further comments on the matters raised in this section, please add them below.**

Same sex rape is not a crime and currently a man can not be charged with raping another man.

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

No.

**6. If so, are there any differences between opposite sex and same sex marriages?**

NA

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

---

No.

**9. If so, is this available to opposite sex couples?**

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No.

**10. What are the significant differences (if any) from marriage?**

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NA

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

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Yes.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

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NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

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NA

**14. If you have any further comments on the matters raised in this section, please add them below.**

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Insofar as answer 11 is concerned, a foreign same sex marriage maybe recognised in limited circumstances (for example by way of some spousal benefits) but is not treated as a valid marriage in Hong Kong. Insofar as answer 15 is concerned this has only been very narrowly recognised, on a limited basis in the context of our domestic violence legislation

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

No.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

NA

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

NA

**18. Can a sole homosexual person adopt in your jurisdiction?**

Yes.

**19. Is surrogacy legal in your jurisdiction?**

Yes.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

No.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

NA

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

A donor is not to be treated as a legal parent under surrogacy arrangements unless the donor is the surrogate mother.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

NA

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

NA

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

No.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

No.

**27. If you have any further comments on the matters raised in this section, please add them below.**

Insofar as Q23 is concerned, surrogacy is only legal if it is not a commercial arrangement.

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

NA

**29. What financial claims can be made on separation or divorce for a same sex couple?**

None.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

NA

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

NA

**32. Can financial claims be made on dissolution of the civil union?**

NA

**33. If so, what financial claims can be made?**

NA

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

Yes.

**36. If so, what claims can be made?**

Only claims in respect of any child born of that relationship.

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

No.

**39. If so how?**

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

Yes.

**41. If so, how do they differ?**

In that the unmarried mother has automatic rights of custody whereas the unmarried father will have to apply for that.

**42. If you have any further comments on the matters raised in this section, please add them below.**

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

Yes.

**44. If so, in what respect??**

They are not recognised as a spouse or partner in the same way as they would if they were of opposite gender.

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

Yes.

**46. If so, in what respect??**


---

There is no real family legislation protecting/governing a same sex relationship as we do for a opposite sex couple, save for our domestic violence legislation as mentioned above.

**47. If you have any further comments on the matters raised in this section, please add them below.**


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NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**


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Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**


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Tbc.

**50. If you have any further comments on the matters raised in this section, please add them below.**


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NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**


---

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**


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NA

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**


---

NA

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**


---

NA

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

---

NA

**56. Is changing gender a ground for divorce in your jurisdiction?**

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NA

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

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NA

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

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NA

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

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NA

## JURISDICTION

## India

Valid Date	09/24/18
Contributor Name	Ms. Geeta Luthra
Contributor Email	geeta@geetaluthra.in
Contributor Firm	Chambers of Geeta Luthra, Senior Advocate, Supreme Court of India

### 1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?

NA

### 2. If so, what are the penalties?

Engaging in homosexual sex was illegal in India prior to 6th September 2018, whether consensual or not. However, after that, the Supreme Court of India has decriminalized consensual homosexual sex. Section 377 of the Indian Penal Code, 1860 still applies to non-consensual carnal intercourse, whether homosexual or heterosexual and provides for imprisonment for life or imprisonment of either description for a term which may extend to 10 years and also provides for fine to be imposed.

### 3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.

Yes, Section 377 of the Indian Penal Code, 1860 still applies to non-consensual carnal intercourse against the order of nature with any man or woman.

### 4. If you have any further comments on the matters raised in this section, please add them below.

Prior to 6th September 2018, Section 377 of the Indian Penal Code, 1860 criminalized voluntary relationships between people of the same sex in totality, whether consensual or not. However, on 6th September 2018, in the judgment *Naveen Singh Johar & Ors. vs. Union of India & Ors.*, the Supreme Court of India has held that insofar as Section 377 criminalizes consensual sexual acts of adults in private, it is violative of Article 14 of the Constitution of India (Right to Equality), Article 15 (Discriminatory), Article 19 (Right of Freedom) and Article 21 (Protection of life and personal liberty).

### 5. Is it possible for a same sex couple to marry in your jurisdiction?

No.

**6. If so, are there any differences between opposite sex and same sex marriages?**

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Same sex marriages are not recognized in India.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

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No.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

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No.

**9. If so, is this available to opposite sex couples?**

---

No.

**10. What are the significant differences (if any) from marriage?**

---

A civil union type scheme is not available to either same sex couples or opposite sex couples in India.

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

No.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

De facto or common law relationships are not recognized in India, whether between opposite sex couples or the same sex couples. However, a de facto or common law relationship between opposite sex couple is codified for a limited purpose in the Protection of Women from Domestic Violence Act, 2005. Recently, the Courts have recognized live-in relationships akin to marriage in various judgments.

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

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De facto or common law relationships and civil union type arrangements are not recognized in India, whether between opposite sex couple or same sex couple. There is only one exception as detailed in Point 16. The Supreme Court of India has distinguished between a marriage and a de facto/ common law/ live-in relationship in Indira Sarma vs. V.K.V. Sarma. The main difference is the nature of rights and liabilities involved. A married couple has to discharge various rights and obligations, unlike the persons having a live-in/ marriage-like/ de facto relationship. In a marriage, the parties are fully cognizant of the legal obligation which arises by operation of law and the rights and duties they owe to their children and the family as a whole, unlike in the case of persons entering into a live-in relationship. A de facto/ common law relationship (live-in relationship) is purely an arrangement between the parties.

**14. If you have any further comments on the matters raised in this section, please add them below.**

The issue of recognition of foreign marriages of same sex couples (as in Point 11 of the survey) has not arisen in the Indian courts till date. In Indira Sarma vs. V.K.V. Sarma, the Supreme Court of India has observed that a live-in or marriage like relationship is neither a crime nor a sin, though it is socially unacceptable in India and the decision to marry or not to marry or have a heterosexual relationship is intensely personal. Even in Lata Singh vs. State of U.P., the Supreme Court of India observed that a live-in relationship between two consenting adults of heterosexual sex does not amount to any offence even though it may be perceived as immoral. The Protection of Women from Domestic Violence Act, 2005 recognises a relationship 'in the nature of marriage' and not a live-in relationship simpliciter, though for a limited purpose of protecting the woman involved in such a relationship being subjected to domestic violence. In Indira Sarma vs. V.K.V. Sarma, the Supreme Court of India has laid down non-exhaustive guidelines to recognise the same. However, it has been observed by the Court that a domestic relationship between same sex partners is not recognized by the Act and it cannot be termed as a relationship in the nature of marriage under the Act.

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

No.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

Same sex couples cannot adopt a child in India.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

No.

**18. Can a sole homosexual person adopt in your jurisdiction?**

No.

**19. Is surrogacy legal in your jurisdiction?**

Yes.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

No.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

There is no law to regulate gamete and/or embryo donation in India.

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

No.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

NA

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

Same sex marriages are not recognized in India.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

No. Civil union or common-law relationship are not recognized by law.

**27. If you have any further comments on the matters raised in this section, please add them below.**

For the issue raised in Point 19 - Same sex couples cannot adopt a child as a couple. However, it might be possible for one to adopt as a single parent. In such a case, his/ her partner will have no right over the child. For the issue raised in Point 22 - Usually while adopting, a sole homosexual person does not disclose his sexual orientation. A child can be adopted by a closeted homosexual if he/ she does not disclose the same as a sole homosexual cannot legally adopt otherwise. There is no legislation in India which regulates Surrogacy. However, it was legalized by the Supreme Court of India in Baby Manji Yamada vs. Union of India in 2008. The Indian Council of Medical Research (ICMR) issued guidelines in 2005 to regulate Surrogacy in India. In 2010, the Assisted Reproductive Technology (Regulation) Bill was drafted, however it was not passed. Currently, the Surrogacy (Regulation) Bill, 2016 has been drafted to regulate Surrogacy in India, however it is pending approval. For issue raised in Point 27 and 28 - There is no law which regulates this aspect for homosexual persons.

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

Same sex marriages are not recognized in India.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

No financial claims can be made as same sex marriages or other such relationships are not recognized.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

Such claims are not available for same sex couples.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

Civil union type scheme is not recognized in India.

**32. Can financial claims be made on dissolution of the civil union?**

No.

**33. If so, what financial claims can be made?**

Financial claims cannot be made on dissolution of the civil union as it is not recognized.

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

Civil union type scheme is not available for opposite sex couples.

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

No.

**36. If so, what claims can be made?**

No claims can be made as a de facto or common-law relationship between a same sex couple is not recognized.

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

No such claims can be made. The only exception is under the Protection of Women from Domestic Violence Act, 2005. A woman in a de facto/ common law relationship can claim under the Act if she has been subjected to domestic violence in a relationship 'in the nature of marriage', but not a live-in relationship simplicitor.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

Yes.

**39. If so how?**

The Hindu Marriage Act, 1955 differentiates between a legitimate and an illegitimate child and provides that the children born out of marriages which fulfil all the conditions of a valid marriage mentioned under the Act are legitimate. There is no specific law that recognizes the status of persons in a live-in relationship and thus, there is no law governing the status of children born out of live-in relationships. However, in *SPS Balasubramanyam vs. Sruttayan*, the Supreme Court of India has held that children born from a live-in relationship akin to marriage are legitimate. Further, various judgments of the Supreme Court, like *Bharatha Matha & Anr. vs. R. Vijaya Renganathan & Ors.*, *Dimple Gupta vs. Rajiv Gupta*, *Vidyadhari vs. Sukhrana Bai*, etc. have held that child born out of live-in relationship may be allowed to inherit the self-acquired property of parents and are 'legal heirs' but do not have a claim against the ancestral property and that they have maintenance rights. The Supreme Court of India has given such children the status of legitimate children, however they are still not treated at par with children of marital relationships.

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

Yes.

**41. If so, how do they differ?**

Under the Guardian and Wards Act, 1890, the father is the natural guardian. However, in the case of an unmarried woman, she will be the natural guardian of the child.

**42. If you have any further comments on the matters raised in this section, please add them below.**

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

Yes.

**44. If so, in what respect??**

Since same sex marriages do not have legal recognition, same sex couples do not have any civil rights.

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

Yes.

**46. If so, in what respect??**

Since same sex marriages do not have legal recognition, same sex couples do not have any such rights.

**47. If you have any further comments on the matters raised in this section, please add them below.**

Same sex couples do not have any civil rights in India as of right now. It was only recently that homosexual relationships and consensual sexual relationship between homosexuals was decriminalized by the Supreme Court of India.

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

Yes.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

Under the Constitution of India, Article 14 guarantees every person the right to equality before the law. Article 15 prohibits the State from discriminating against any citizen on the grounds only of religion, race, caste, sex, place of birth or any of them. Article 19(1)(a) guarantees all citizens the right to freedom of speech and expression. Article 21 guarantees the right of life and personal liberty to every person.

**50. If you have any further comments on the matters raised in this section, please add them below.**

The law prohibits discrimination of a person on the basis of sexual orientation. However, the same is considered as a social stigma in the society, because of which the discrimination still exists. The Courts in India have adopted a positive approach towards such cases in the recent times. In Faizan Siddiqui vs. Sashastra Seema Bal, Faizan Siddiqui assailed the rejection of her candidature for the post of Constable in the Sashastra Seema Bal on the grounds of medical unfitness as she was diagnosed as suffering from a hormonal anomaly which is described as a 'Disorder of Sexual Differentiation' and had undergone the necessary surgery. The High Court of Delhi held that the rejection was arbitrary, irrational and illegal and thus the Court quashed it.

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

No such age is prescribed in law. It can be done whenever it is medically feasible as per the doctors prospective.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

There is no such process prescribed in law for gaining legal recognition after changing the gender. However, a person can get an affidavit of change in name and gender (and get it attested), publish in two newspaper advertisements and then notify it in the Gazette. On the basis of these documents, the gender and name in other identity documents can be changed. A psychiatric or other medical investigation is not legally required before a person can change gender. The person changing his/ her gender has the discretion in this regard.

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

No.

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

The law does not provide for what happens to the status of the marriage when one party transitions. There is no codified ground for the same. However, the opposite party may approach the Court for a divorce as his/ her spouse has transitioned. It may amount to cruelty as the non-transitioned spouse will be deprived of a marital relationship.

**56. Is changing gender a ground for divorce in your jurisdiction?**

No.

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

Yes, the non-transitioned spouse will be entitled to a divorce as it will deprive him/ her of a marital relationship.

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

Yes.

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

Despite being affirmed by the Supreme Court of India that the Fundamental Rights guaranteed under the Constitution of India were equally applicable to transgender people, social exclusion and discrimination on this ground does prevail in India. They are socially ostracized. They are sometimes addressed using derogatory words. There are lack of job opportunities for them because of the society's perception towards them as a result of which they end up begging or becoming a sex worker.

**60. If you have any further comments on the matters raised in this section, please add them below.**

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It was in National Legal Services Authority vs. Union of India in 2014, where the Supreme Court of India declared transgender people to be a 'third gender'. The Supreme Court affirmed that the Fundamental Right guaranteed under the Constitution were equally applicable to transgender people.

## JURISDICTION

## Malaysia

Valid Date	08/13/18
Contributor Name	Kiran Dhaliwal
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Contributor Firm	Y.N. Foo & Partners

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

Yes

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

NA

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

NA

**6. If so, are there any differences between opposite sex and same sex marriages?**

NA

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

NA

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

NA

**9. If so, is this available to opposite sex couples?**

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NA

**10. What are the significant differences (if any) from marriage?**

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NA

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

NA

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

NA

**14. If you have any further comments on the matters raised in this section, please add them below.**

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NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

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NA

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

NA

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

NA

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

NA

**19. Is surrogacy legal in your jurisdiction?**

---

NA

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

NA

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

NA

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

NA

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

NA

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

NA

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

NA

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

NA

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

---

NA

**29. What financial claims can be made on separation or divorce for a same sex couple?**

---

NA

**30. Do these claims differ in any way from those available to an opposite sex couple?**

---

NA

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

---

NA

**32. Can financial claims be made on dissolution of the civil union?**

---

NA

**33. If so, what financial claims can be made?**

---

NA

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

---

NA

**36. If so, what claims can be made?**

---

NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

---

NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

---

NA

**39. If so how?**

---

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

---

NA

**41. If so, how do they differ?**

---

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

---

NA

**44. If so, in what respect??**

---

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

---

NA

**46. If so, in what respect??**

---

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

NA

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

NA

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

NA

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

NA

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

NA

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

NA

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

NA

**56. Is changing gender a ground for divorce in your jurisdiction?**

NA

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

NA

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

NA

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

## JURISDICTION

## Singapore

Valid Date	08/13/18
Contributor Name	KEE LayLian
Contributor Email	lay.lian.kee@rajahtann.com
Contributor Firm	Rajah & Tann Singapore LLP

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

NA

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

NA

**6. If so, are there any differences between opposite sex and same sex marriages?**

NA

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

NA

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

NA

**9. If so, is this available to opposite sex couples?**

---

NA

**10. What are the significant differences (if any) from marriage?**

---

NA

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

NA

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

NA

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

NA

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

NA

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

NA

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

NA

**19. Is surrogacy legal in your jurisdiction?**

---

NA

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

NA

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

NA

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

NA

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

NA

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

NA

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

NA

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

NA

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

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NA

**29. What financial claims can be made on separation or divorce for a same sex couple?**

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NA

**30. Do these claims differ in any way from those available to an opposite sex couple?**

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NA

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

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NA

**32. Can financial claims be made on dissolution of the civil union?**

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NA

**33. If so, what financial claims can be made?**

---

NA

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

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NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

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NA

**36. If so, what claims can be made?**

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NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

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NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

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NA

**39. If so how?**

---

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

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NA

**41. If so, how do they differ?**

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NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

---

NA

**44. If so, in what respect??**

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NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

---

NA

**46. If so, in what respect??**

---

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

NA

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

NA

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

NA

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

NA

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

NA

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

NA

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

NA

**56. Is changing gender a ground for divorce in your jurisdiction?**

NA

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

NA

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

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NA

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

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NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

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NA

## JURISDICTION

## New Zealand (1)

Valid Date	09/27/18
Contributor Name	Inger Blackford
Contributor Email	iblackford@trinitychambers.co.nz
Contributor Firm	Trinity Chambers

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**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**


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No

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**2. If so, what are the penalties?**


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NA

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**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**


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NA

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**4. If you have any further comments on the matters raised in this section, please add them below.**


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NA

---

**5. Is it possible for a same sex couple to marry in your jurisdiction?**


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Yes.

---

**6. If so, are there any differences between opposite sex and same sex marriages?**


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No.

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**7. Does your jurisdiction recognize foreign marriages of same sex couples?**


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Yes.

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**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**


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Yes.

**9. If so, is this available to opposite sex couples?**

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Yes.

**10. What are the significant differences (if any) from marriage?**

---

None, just terminology.

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

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Yes.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

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NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

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NA

**14. If you have any further comments on the matters raised in this section, please add them below.**

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NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

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Yes, our act is from 1955 and out of date but the court takes a pragmatic approach generally to same sex applications.

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

No.

**18. Can a sole homosexual person adopt in your jurisdiction?**

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Yes.

**19. Is surrogacy legal in your jurisdiction?**

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Yes.

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

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Yes.

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

Yes.

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

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NA

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

Yes.

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

Yes.

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

Need to apply to adopt.

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

NA

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

No difference.

**29. What financial claims can be made on separation or divorce for a same sex couple?**

The same as for married heterosexual couples; maintenance, child support and division of relationship property.

**30. Do these claims differ in any way from those available to an opposite sex couple?**

No.

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

By court application.

**32. Can financial claims be made on dissolution of the civil union?**

Yes.

**33. If so, what financial claims can be made?**

Same as for married couples in general.

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

No significant differences.

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

Yes.

**36. If so, what claims can be made?**

Same as for married people regarding the division of assets and financial support.

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

No.

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

No.

**39. If so how?**

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

No.

**41. If so, how do they differ?**

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

The only difference is if an unmarried father hasn't lived with the mother during the conception/ pregnancy/ birth and isn't on the birth certificate it can affect their guardianship rights.

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

No.

**44. If so, in what respect??**

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

No.

**46. If so, in what respect??**

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

No.

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

NA

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

Yes.

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

Not my area of expertise.

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

NA

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

NA

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

NA

**56. Is changing gender a ground for divorce in your jurisdiction?**

NA

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

NA

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

NA

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

## JURISDICTION

## New Zealand (2)

Valid Date	08/13/18
Contributor Name	Isabel M Mitchell
Contributor Email	imm@ctlaw.co.nz
Contributor Firm	Cunningham Taylor

**1. Is either being homosexual or engaging in homosexual sex illegal in your jurisdiction?**

No

**2. If so, what are the penalties?**

NA

**3. Are there other elements of criminal law that relate only or primarily to homosexuals? If so, briefly explain.**

NA

**4. If you have any further comments on the matters raised in this section, please add them below.**

NA

**5. Is it possible for a same sex couple to marry in your jurisdiction?**

Yes.

**6. If so, are there any differences between opposite sex and same sex marriages?**

No.

**7. Does your jurisdiction recognize foreign marriages of same sex couples?**

Yes.

**8. Is there a civil union type scheme for same sex couples in your jurisdiction?**

Yes.

**9. If so, is this available to opposite sex couples?**

---

Yes.

**10. What are the significant differences (if any) from marriage?**

---

NA

**11. Does your jurisdiction recognize de facto or common-law relationships for same sex couples?**

---

Yes.

**12. If so, are there any differences in the treatment of opposite sex and same sex de facto or common-law relationships on the breakdown of their relationship?**

---

NA

**13. Please identify any significant differences between de facto or common-law relationships and marriage and civil union type arrangements.**

---

s 182 Family Proceedings Act applications may only be made after the dissolution of marriage.

**14. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**15. Is it possible for a same sex couple to adopt a child in your jurisdiction?**

---

Yes.

**16. If so, are there any hurdles to adoption that impact to a greater extent on same sex couples?**

---

NA

**17. Do same sex couples need to be married, in a civil union or any other type of legally recognized relationship in order to adopt?**

---

NA

**18. Can a sole homosexual person adopt in your jurisdiction?**

---

NA

**19. Is surrogacy legal in your jurisdiction?**

---

NA

**20. If so, can a same sex couple gain parentage for a child through surrogacy?**

---

NA

**21. Is gamete and/or embryo donation legal in your jurisdiction?**

---

NA

**22. If so what requirements must be met, if any in order to terminate the parental relationship between the donor and the child?**

---

NA

**23. Can the parental relationship between the donor and the child be terminated if the donation is made to a same-sex married couple?**

---

NA

**24. Can the parental relationship between the donor and child be terminated if the donation is made to a homosexual unmarried woman or man?**

---

NA

**25. If a woman in a same sex marriage gives birth to a child following treatment at a clinic, does her wife acquire parental authority for the child either automatically or through other measures? If so, please explain how.**

---

NA

**26. Is this different if the relationship is a civil union or common-law relationship? If so, please explain how.**

---

NA

**27. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**28. If there is same sex marriage in your jurisdiction, are there differences in the divorce process for same sex couples? If so, briefly explain the differences.**

---

NA

**29. What financial claims can be made on separation or divorce for a same sex couple?**

---

NA

**30. Do these claims differ in any way from those available to an opposite sex couple?**

---

NA

**31. If a civil union type scheme is recognized in your jurisdiction, how is the relationship dissolved?**

---

NA

**32. Can financial claims be made on dissolution of the civil union?**

---

NA

**33. If so, what financial claims can be made?**

---

NA

**34. If a civil union type scheme is also available to opposite sex couples in your jurisdiction, are there any differences between the financial provision made for same sex as opposed to opposite sex couples?**

---

NA

**35. If a de facto or common-law relationship between a same sex couple breaks down, can the couple make financial claims?**

---

NA

**36. If so, what claims can be made?**

---

NA

**37. Do these claims differ from the claims that can be made by an opposite sex couple in your jurisdiction? If so, please briefly explain how they differ.**

---

NA

**38. Does the law treat children of unmarried parents any differently from children of married parents in your jurisdiction?**

---

NA

**39. If so how?**

---

NA

**40. Do the parental rights of unmarried parents differ from those of married parents in your jurisdiction?**

---

NA

**41. If so, how do they differ?**

---

NA

**42. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**43. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for inheritance purposes?**

---

NA

**44. If so, in what respect??**

---

NA

**45. Are same sex couples in your jurisdiction treated any differently from opposite sex couples for taxation?**

---

NA

**46. If so, in what respect??**

---

NA

**47. If you have any further comments on the matters raised in this section, please add them below.**

---

NA

**48. Does the law in your jurisdiction prohibit discrimination of a person on the basis of sexual orientation?**

NA

**49. If you answered yes to the previous question, please explain how the law operates to prohibit discrimination.**

NA

**50. If you have any further comments on the matters raised in this section, please add them below.**

NA

**51. Is it possible for a person to change their gender legally in your jurisdiction?**

NA

**52. If it is possible to change legal gender in your jurisdiction, from what age is this possible?**

NA

**53. What is the process for gaining legal recognition of a person's gender when they have changed their gender? Is psychiatric or other medical investigation required before a person can change gender?**

NA

**54. Where a person was married before they changed their gender, is their spouse's consent required for that person to gain gender recognition?**

NA

**55. What happens to the status of the marriage/civil partnership when one party transitions?**

NA

**56. Is changing gender a ground for divorce in your jurisdiction?**

NA

**57. Does changing gender affect the divorce process in any way? If so, briefly explain how.**

NA

**58. Does the law in your jurisdiction prohibit discrimination of a person on the basis of their status as a trans person?**

---

NA

**59. If you answered yes to the previous question, please explain how this discrimination can take place.**

---

NA

**60. If you have any further comments on the matters raised in this section, please add them below.**

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NA