

## **The legalization of same-sex couples in Europe: Legal indicators and demographic rates**

### **I. Introduction**

The legal and statistical study of the forms of legalization offered to homosexual couples has evidenced both the complexity of the relationship between law and demography and the possibility of using it to reach the wellsprings of broad phenomena far beyond the behavior of homosexuals alone with regard to marriage. In fact, the factors that encourage homosexual couples to legalize their union concern not only their own interests, measured by the extent of the rights opened by the new laws, but all forms of conjugality. More specifically, the factors that promote or discourage nuptiality, such as the respective weight given by the welfare state to the couple and the individual, or the legislator's desire to bring de facto situations closer to legal situations, are factors that affect all couples, whether homosexual or heterosexual. (Festy, 2006)

In the Nordic countries, where the partnership laws offered an experience of several years in 2006, a gradual increase in the number of registered couples had begun to bring the behavior of homosexual couples closer to that of heterosexuals. This increase was primarily the result of lesbians, whose registration frequency was lower in the first years of the law. With the passage of time, practices became established in the lives of couples without any change in the legislative framework.

We resume the analysis of the marriage of same-sex couples in Europe, benefiting from twelve more years of statistical observation and an enriched analysis of the content of the laws. Over a prolonged period of time, we can now associate the evolution of the number of marriages with the dynamics of laws and not just a snapshot of them. The result is a deepening and questioning of the previous conclusions. The impressions we might have had initially will be submitted to a more systematic verification and measurement of the relationship between the consequences attached to same-sex legalization and the number of marriages or registered partnership.

### **II. Trends in legal consequences attached to marriage or registered partnership**

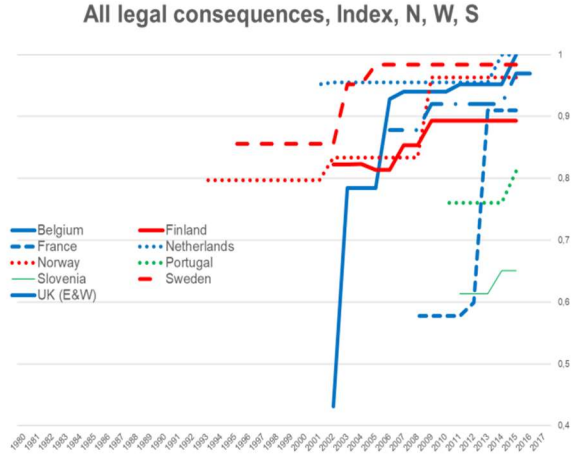
Legal recognition of same-sex couples opens up positive legal consequences inferior or equal to consequences opened up by heterosexual marriage. We measure these legal consequences and establish their levels and trends in 21 European countries. We will then try to answer this question: Is the frequency of same-sex legal recognition correlated with the level of legal consequences attached to recognition?

Twenty-five questions have been addressed to lawyers in each European country about possible positive consequences attached to each conjugal form (marriage, registered partnership or cohabitation, same-sex or different-sex). Documented answers by the lawyers are coded "Yes", "Yes but with restrictions", "No except in some cases" or "No", and then are numbered respectively 3, 2, 1 and 0. Global scores for several questions result from additions. Global scores for same-sex forms are compared with global scores for different-sex marriages. Among same-sex couples, we also measure the distance between legalized forms and cohabiting ones. These indicators are calculated yearly, so that trends can be established and correlated with demographic indicators of nuptiality. (Waldijk, 2017)

We give an illustration for the distance between same-sex legalized unions and different-sex marriages in a sample of nine northern, western and southern countries. (Figure 1)

In brief, Nordic countries like Norway or Sweden open the way to a continuous enlargement of rights offered to same-sex couples; some western countries like the Netherlands accompany the movement while others, like France, follow it with a delay; southern countries lag far behind.

Figure 1. Legal index (all consequences), Europe 1990–2017



Source: own calculation

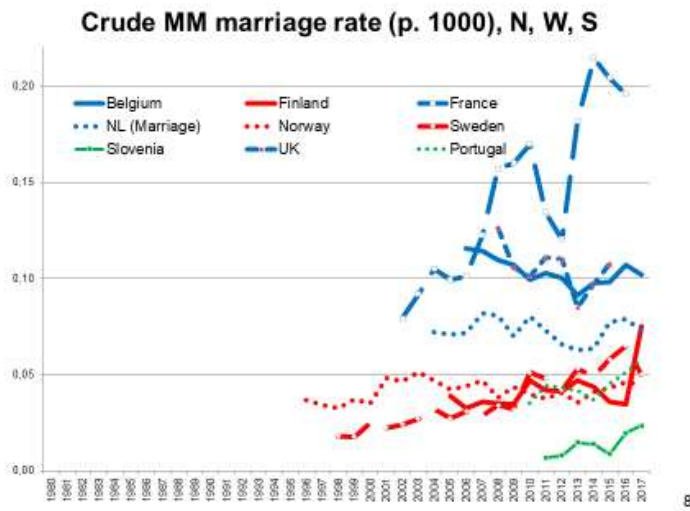
To better understand the meaning of any relationship between marriage rates and legal consequences attached to same-sex marriage, we have divided the latter into subgroups (material consequences, parenting, migration, other non-material consequences) and we have calculated scores following the same procedure as previously.

**III. Trends in marriage and registered partnership frequency throughout Europe**

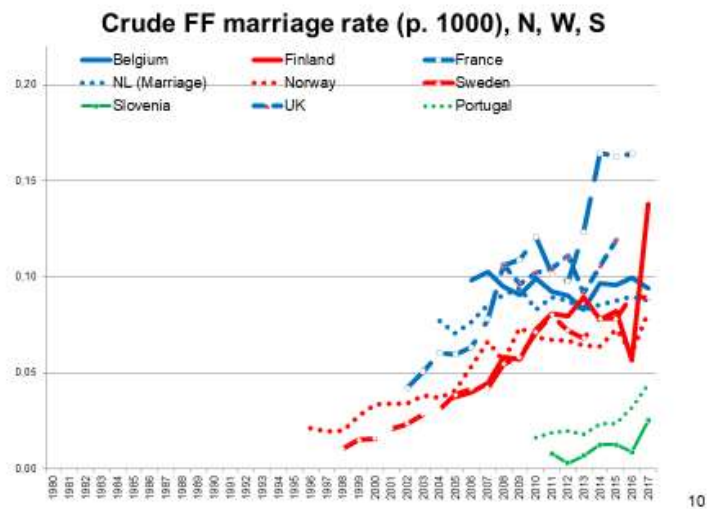
For the geographical coverage to be wide and for the time-series to be as long as possible, we had to rely on simple indices: crude rates that report numbers of marriages and/or registered partnerships to total population instead of the population directly exposed to risk (i.e., same-sex couples). More precisely, gay marriages and/or registered partnerships are reported to total male population, and lesbian marriages and/or registered partnerships are reported to total female population. (Figure 2)

Countries we are dealing with are broadly similar in their demographic structure, for instance, in their degree of population aging, and we may suppose more generally that structural factors do not much affect comparisons based on crude rates. Nevertheless, we will develop the Dutch and French cases based on reliable measures of gay and lesbian couples and will compare trends in crude and refined rates for recent years.

Figure 2. Crude marriage rates by sex, Europe 1980–2017



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Source: own calculation from marriage records and population statistics.

#### IV. Discussion

The correlations between demographic and legal indicators confirm and add precision to the analyses we had performed previously. They confirm that the impact of legislation on marriage rates has its origin in parenting dimensions of the laws and essentially concerns women. They are more precise because they rely on longer time-series of marriage rates associated with an innovative analysis of the dynamics of law content, which makes possible a correlation between two processes

rather than between two snapshots: levels and trends in marriage rates together with levels and trends in law variables.

It has been possible to show that the impact of changes in laws was reflected with no delay in changes in marriage rates.

Here we establish that female marriage rates are higher in countries that grant more parental facilities, which is a relationship between macro data. Can we take it for granted that the content of the law influences the number of marriages or do we need to identify a third variable that simultaneously impacts the extent of the laws concerning parenting?

For instance, we may assume and can check whether women's empowerment could have contributed to the adoption of laws favoring homoparenting and if it can be associated with the increase in the female marriage rate. Or we may assume that the opening of marriage to homosexuals is part of the diversification of conjugal and family forms, that characterizes the Second demographic transition and can be associated to common determinants.

Along similar lines various assumptions will be tested that will add sense to the correlations measured between the content of the laws and the frequency of legalization of same-sex couples.

Festy P. (2006) La légalisation des couples homosexuels en Europe.- *Population*, 4, p. 493-532.

Waldijk, K. (2017). Introduction to the legal survey and its methods & Overview of the results from the legal survey & Conclusion. In K. Waldijk (Ed.), *More and more together: Legal family formats for same-sex and different-sex couples in European countries – Comparative analysis of data in the LawsAndFamilies Database* (pp. 7-72, 151-181). FamiliesAndSocieties Working Paper 75(2017).