

Chapter 7

The Nordic Model: Same-Sex Families in Love and Law

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Abstract The Nordic Countries share a common history and have a long tradition of legal cooperation. Their systems of government are often referred to as *the Nordic model* modelled on principles of equality and social security. The Nordic Countries were the first in the world to incorporate same-sex relationships into the sphere of traditional family law. One of the most outstanding features of the legal development in this area is the trust in the democratic processes and lack of challenges through the judiciary. This chapter discusses some key elements of the Nordic model and Nordic constitutional theory and follows the development of the legal regulations of same-sex relationships within family law in each of the Nordic Countries: Denmark, Norway, Sweden, Iceland and Finland.

7.1 Introduction

The Nordic Countries¹ share a common history, culture and social values and have a long tradition of legal cooperation. They are democracies with parliamentary governments. They are also strong welfare States with unique characteristics which are often embodied using the terms the Nordic welfare state model, or the Nordic model. Historically the Nordic model is molded on principles of social security, equality and opportunities for every individual.

These principles have greatly affected the development of the Nordic legal systems in different areas. The Nordic Countries were the first in the world to incorporate same-sex relationships into the sphere of traditional family law. This

¹ The Nordic Countries consist of five sovereign states: Denmark, Finland, Iceland, Norway and Sweden. The Faroe Islands and Greenland enjoy a high degree of self-governance under the sovereignty of Denmark and the same applies to the Åland Island under Finland.

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recognition is generally accepted as having made a genuine and striking impact on the development in many other Countries.² One of the special features regarding the development of favorable same-sex legislation within family law in the Nordic Countries is the fact that changes have come about exclusively through the democratic process.

The aim of this chapter is to give an overview of how regulations of same-sex relationships have developed step by step in the area of family law in the Nordic Countries. Family law regulates formal relations between individuals in close emotional relationships. Legal reforms within the field of family law thus deal with the framing and reframing of concepts such as marriage, cohabitation, partnership, parentage and parental responsibilities. The chapter will begin with some notes on Nordic cooperation and characteristics of the Nordic Model that have been instrumental in the development of laws regulating same-sex relationships in the Nordic Countries. The chapter will then briefly outline the developments and major milestones in each of the five Nordic Countries. The conclusionary remarks will at last attempt to identify further similarities and divergences between the legal orders.

7.2 Nordic Family Law and Same-Sex Relationships

7.2.1 *The Nordic Model*

The Nordic Countries are thought to comprise one of the most stable regions in the world of parliamentary democracy, albeit each one with distinctive parliamentary models. They are characterised as consensual democracies where governments engage in dialogue with opposition parties. It has been argued that a distinctive model of political decision making has evolved in the Nordic Countries with a particular emphasis on compromise and pragmatic solutions.³ The Nordic Countries are relatively small in population size and some have argued that the smallness has contributed significantly to a consultative and consensus based Nordic style politics.⁴

The Nordic Countries are well known as strong welfare states. Friedman argues that maximization of freedom is at the very core of welfare States and that they pursue individual freedoms through a quest for security and social guarantees.⁵ This resonates with the general goal of the Nordic model to actively encourage strong

² Scherpe (2007), p. 266.

³ Persson and Wiberg (2011), p. 17.

⁴ Arter (2006), p. 5.

⁵ Friedman (1990), p. 74.

social cohesion based on core values of equality, social solidarity, security and opportunities for all.

One of the central aspects of the Nordic Countries is their high social capital which reflects their general reliance on a consensual approach on how to develop legal norms and social policy.⁶ The State has been understood as virtually identical with society as a promoter of the interests of its citizens⁷ and in that sense Nordic legislation is both normatively and ideologically powerful. The pursuit of individual freedoms is thus broadly accepted as an organized, institutionalized activity rooted in the rule of law.⁸

7.2.2 *The Nordic Legal Family*

The legal systems in the Nordic Countries are generally considered a legal family of its own. As Bernitz points out the Nordic Countries are

remarkably similar to each other as regards the fundamental perception of the legal system, its design, methodology and basic principles.⁹

These similarities are based on their common heritage, culture and social values. The Nordic Countries are all characterized as civil law Countries and judicial review in some form is an integral part of Nordic constitutional law.

The Nordic Countries have a long history of cooperation in the area of law. An underlying aim has to some extent been to achieve as much conformity as possible but also to actively exchange information and experiences.¹⁰ The first step to the current formal, legal and political cooperation was taken in 1952 when the Nordic Council was formed.¹¹ The Nordic Council of Ministers, which is an equivalent cooperation between the Nordic governments, was established in 1971. Contemporary cooperation is based on the 1962 Nordic cooperation agreement known as the Helsinki Treaty. The preamble to the treaty states that the Nordic Countries will strive towards uniform rules in the Nordic Region in as many respects as possible.¹²

⁶ Greve (2007), pp. 44–45.

⁷ Svenson and Pylkkänen (2004), p. 18.

⁸ According to comparative research elements of social capital are among the highest in the Nordic Countries, with the highest levels of generalized trust and confidence in political actors, see Giczi and Sik (2009), p. 79.

⁹ Bernitz (2007), p. 18.

¹⁰ The Nordic states are in many ways influenced by global developments and increased Europeanization, though to different degrees. All the Nordic Countries are Council of Europe Member States. Denmark (not the Faroe Islands and Greenland), Finland (along with the Åland Islands) and Sweden are members of the EU, but Norway and Iceland are EFTA Countries within the EEA (European Economic Area).

¹¹ The Nordic Council, www.norden.org.

¹² *Ibidem*. Accessed 15 December 2012.

7.2.3 *Nordic Milestones*

As stated above the Nordic Countries were forerunners in accepting and legitimizing same-sex relationships within the sphere of family law.

There are some common trends discernible in Nordic family law reform in the twentieth century that undoubtedly paved the way.¹³ The Nordic Countries cooperated closely in reforming their marriage laws in the first decades of the twentieth century, placing great emphasis on gender equality and joint, equal responsibility of both spouses. This was a modern concept of marriage—as a contractual union of two equal individuals creating common financial and emotional needs and obligations.

Another step was the ensuing abolishment of the distinction between legitimate and illegitimate children emphasizing equality for children regardless of parental *status*. The most important aspect of this was to distinguish between on one hand the material consequences of marriage for the adults involved and on the other hand procreation and the needs of children; thus effectively challenging the links between marriage and procreation.

The Nordic Countries have also in general operated a dynamic approach to the definitions of families with the broad acceptance of non-marital cohabitation in society. All the Nordic Countries emphasize marriage as the preferred model for legal recognition of couples and unmarried cohabitation as a distinctly different choice of family formation. On one hand family law deals with some of the core marital rights and obligations that do not apply to non-marital cohabitation, such as dissolution and division of property and inheritance rights. Cohabitants on the other hand enjoy certain comparable rights and obligation in many other areas of law, most notably within social welfare legislation.¹⁴

The Nordic Council took important steps in 1984 that in many ways laid the foundation for the development of legal regulations with regards to same-sex relationships in the Nordic Countries. The Nordic Council issued two recommendations on 1st March 1984. In recommendation 17/1984 the Council urged the Nordic Countries respectively to study and collect information about the situation of homosexuals in each Country, examine the possibilities of abolishing laws discriminating against homosexuals and the possibility of adopting laws to secure the equality of homosexuals and their protection against discrimination. In recommendation 18/1984 the Council urged the governments of the Nordic Countries to cooperate within the UN and other international organizations on issues involving the human rights of homosexuals, with the objective to abolish discrimination.¹⁵

¹³ Important necessary changes have also taken place outside the realm of family law, such as the decriminalization of same-sex sexual acts and the acceptance of different forms of anti-discrimination legislation.

¹⁴ Friðriksdóttir (2012), pp. 151–152.

¹⁵ Friðriksdóttir (1996), p. 9.

Table 7.1 Same-sex relationships in the Nordic Countries—some important milestones

Milestones	Denmark	Norway	Sweden	Iceland	Finland
Registered partnerships acts in force	1989	1993	1995	1996	2002
Step-parent adoption	1999	2001	2003	2000	2009
Joint custody	2010	2009	2003	1996	2002
Formal access to reproductive technologies	2006	2009	2005	2006	2006
Full adoption	2010	2009	2003	2006	n.a.
Gender neutral marriage	2012	2009	2009	2010	n.a. ^a

^aA motion to introduce a bill proposing same-sex marriage and full adoption was rejected by the Finnish Parliament in 2012

The Nordic Council's actions were in part inspired by activity within the Council of Europe but the Nordic recommendations were much wider in scope.¹⁶

Before looking more closely at the developments in each of the Nordic Countries it is worthwhile to give an overview of the important milestones in legislative reform within family law.¹⁷

As evident from Table 7.1, the Nordic Countries have step by step taken action to reduce/abolish exclusion of same-sex couples in family law, starting with the adoption of laws on registered partnership leading up to the acceptance of a gender neutral marriage in all of the Countries except Finland.

7.2.4 *Same-Sex Relationships in the Nordic Countries*

This section takes a closer look at family law reform in each of the Nordic Countries. A special attention will be given to the reasoning for passing the groundbreaking laws on registered partnership and the reasoning for subsequent amendments.

7.2.4.1 Denmark

The first proposals to equate marriage with other forms of cohabitation, including same-sex relationships, was introduced in the Danish Parliament as early as in 1968, albeit unsuccessfully. The Ministry of Justice did appoint a committee to

¹⁶In 1981 the parliamentary Assembly of the Council of Europe adopted recommendation no. 1981 urging member states to apply the same minimum age of consent for same-sex and opposite sexual activity and to ensure equal treatment in employment and child custody decisions. The Council of Europe also adopted resolution no. 756/1981 urging the World Health Organization to remove homosexuality from its International Classification of Diseases. It may also be noted that the Parliament of the European Community adopted a resolution in 1984 requesting member states, among other things, to legalize homosexual relationships.

¹⁷Countries are put in the order in which they introduced Acts on Registered Partnerships.

consider issues such as whether some provisions giving legal effects to marriage should also apply to certain marriage-like family forms but the idea of same-sex marriage was rejected by the committee in 1973 as in breach with traditional views.¹⁸ An active debate followed, both within the LGBT community and between the community and ministerial experts in family law. In 1984 the Danish Parliament adopted a resolution to appoint a special commission to elucidate the social circumstances of homosexuals. The commission's mandate was as follows:

Recognizing that homosexuals ought to have the possibility of living in accordance with their identity and of arranging their lives in society thereafter, and recognizing that adequate possibilities of doing this are not present, the commission shall collect and present available scientific documentation on homosexuality and the homosexual way of life as well as institute investigations to elucidate the legal, social, and cultural circumstances of homosexuals.

In this connection, the commission shall propose measures aimed at removing the existing discrimination within all sectors of society and at improving the situation of homosexuals, including proposals making provisions for permanent forms of cohabitation.¹⁹

The Commission published an extensive report in 1988. The report deals with homosexual identity and discrimination in general, criminal law, labor law, immigration law, social law, tax law and specifically family law. The Commission states:

[I]t must be emphasized, that the freedom of homosexuals to come forward with their own special, divergent identities, free from all types of differentiated treatment, is dependent upon society's acceptance of their existence as different, but just as worthy as other members of society. This depends on enlightenment with the objective of enhancing understanding and tolerance, and here both the school system as a whole and the media can play a part. This also depends on the legislature allowing for homosexuals by abolishing all existing differentiated treatment and taking care not to create laws that may have discriminatory effects [...] the exists a permanent obligation to ensure that homosexuals can freely seek fulfillment of their wishes in life in the same degree as others.²⁰

Despite these broad statements the Commission could not reach a *consensus* on a proposal for laws allowing marriage or formal cohabitation for same-sex partners. The Commission stated that laws regulating marriage reflected society's view of the ideal family and could not as such apply unconditionally for same-sex relationships.²¹ The majority of the Commission also rejected the idea of any kind of registration of same-sex relationships. The reasoning was that there was no real need for such laws as the number of homosexuals living together in family type relationships was unknown in Denmark, and that regulations protecting individuals or informal cohabitation would offer sufficient protection for any such couples. The

¹⁸ In *Betækning* No. 1127/1988 *Homoseksuelles vilkår* [Official Governmental Report: The situation of homosexuals].

¹⁹ *Ibidem*, p. 7.

²⁰ *Ibidem*, at note 19, p. 21.

²¹ *Ibidem*, pp. 109–110.

majority also pointed out that Sweden had recently rejected the idea of extending further protection to homosexuals in family law context, other Countries might strongly object to such legislation and that there was no need for Denmark to be the only Country in the world to legalize homosexual partnerships.²²

The minority of the Commission stressed the overriding importance of equality which could not be achieved without the adoption of formal registered partnership legislation. Real equality could thus not be achieved without formal equality, which required having the same rules for homosexuals and heterosexuals. The minority argued:

In trying to achieve cultural and social equality for homosexuals, it is of absolute importance that society underlines its acceptance of homosexuals, by securing legal equality in forms of cohabitation [...] Law on partnership for two persons of the same sex can better than any other legal regulation of partnerships create a framework for families, secure each members emotional and economic loyalty and underline the mutual obligations in the same manner as marriage for heterosexuals [...] It is hard to see how discrimination against homosexuals can be avoided without offering them the same type of legal regulation as heterosexuals. Also, only by doing this can one give homosexuals the opportunity of choosing what legal regime they wish to have governing their partnership.²³

A bill was presented by members of the Danish Parliament in 1988 relying heavily on the reasoning of the minority of the Commission.²⁴ The bill was passed without much debate and in May 1989 the Danish Parliament adopted law No. 372/1989 on registered partnership.²⁵ The law was simple in design. It allowed two persons of the same sex, to register their partnership in Denmark, following the same procedures as applied to civil marriages.²⁶ According to Art. 3 the registration had all the same (material) consequences as heterosexual marriage, with the explicit exception of certain (parental) consequences further enumerated in Art. 4, such as regarding adoption, joint parental responsibility and rights specifically conditioned on a person's sex (such as rules on paternity of children).

In 1997 Denmark passed laws on reproductive technologies for the first time.²⁷ Before that lesbian women in Denmark had access to private clinics for inseminations but the new law formally restricted access to reproductive technologies to different-sex couples.²⁸

In 1998 the Government introduced a proposal widening the categories of those able to register their partnership in Denmark. In Parliament it was further proposed

²² *Ibidem*, pp. 126–128.

²³ *Ibidem*, p. 123.

²⁴ Bill no. 117 and 118/1998 on registered partnership.

²⁵ Greenland adopted the Danish law on registered partnership in 1996 (Resolution no. 320/1996) but the partnership law is not valid in the Faroe Islands.

²⁶ With the exception that at least one of the partners had to be a Danish national residing in Denmark. This condition changed gradually over the years, allowing persons from other Countries with similar legislation to register their partnership in Denmark.

²⁷ Law No. 460/1997 on reproductive technologies.

²⁸ Bill No. 5/1996–1997 for law on reproductive technologies; Lund-Andersen (2003), pp. 19–20.

to open up step-parent adoption for same sex couples. This was a very important step as the discussion in Denmark for the first time moved away from rhetorical speculations surrounding the best interests of children focusing instead on the needs of children actually living with same-sex parents, thus acknowledging functional same-sex family relationships. It was argued that the legal *status* of these children was not equal to that of children in different-sex families and that their situation was even more vulnerable as they often only had one biological parent.²⁹ The proposals were accepted by the Danish Parliament in 1999.

After legitimizing step-parent adoptions the Danish Parliament routinely turned down proposals to diminish further the difference between registered partnership and heterosexual marriage until the year 2006. In that year the Danish Parliament changed the law on reproductive technologies allowing access for single women and lesbian couples. At this point in time the reasoning was to avoid discrimination based on sexual orientation and to underline equality, i.e. same-sex parents as equality qualified to parent a child. Reference was made to the fact that many children were growing up in same-sex families with no known adverse effects.³⁰

In 2009 the Danish Parliament ordered the government to prepare a bill allowing for full adoption rights for same-sex couples. The bill was introduced in Parliament soon after along with the proposal to change the law on parental responsibility equating different-sex and same-sex couples with respect to joint custody. The goal was to secure full equality for same-sex couples with regards to adoption and custody of children. A special reference was made to the fact that single persons could adopt children in Denmark and that any regards to sexual orientation in that respect would be considered discriminatory.³¹ These changes came into force in 2010.

Finally in 2012 the Danish Parliament legalized same-sex marriage and abolished the law on registered partnership.³² This was based on the government policy document from 2011, stating that: “Freedom of the individual, equal opportunities for all, community, respect and tolerance are our values.” The main goal was to secure the rights of same-sex couples to have a church wedding equal to different-sex couples.³³ The reasoning was as follows:

Since [1989] our laws have gradually changed equating registered partnership and marriage more and more and today registered partnership has almost identical legal consequences as

²⁹ Parliamentary Law Committee Report 6 May 1999. With respect for Countries of origin step-parent adoptions were not available if the child had been adopted from another Country.

³⁰ Bill No. 151/2005–2006 for changes to the law on reproductive technologies.

³¹ Bill No. 146/2009–2010 for changes to the law on registered partnership.

³² Law No. 532/2012 on changes to the law on marriage, law on marital consequences, law on procedure and the abolishment of the law on registered partnership. This was not the first proposal of its kind that was introduced in Parliament, see for example Bill No. 123/2009–2010 for changes to the law on marriage etc.

³³ *Et Danmark – der står sammen* (2011) [A Denmark that stands together]. An English summary available at http://www.stm.dk/multimedia/Regeringsgrundlag_uk_2011.pdf. Accessed 17 December 2012.

marriage. The difference is that registered partnership can only take place before a civil official but cannot be solemnized in a church as a marriage. Even though marriages and registered partnerships have almost identical consequences, these are still considered two distinct legal institutions in Danish law. [...] The proposal is considered as having positive effects on basic equality.

7.2.4.2 Norway

In the wake of the Nordic Council's resolution of 1984 some members of the Norwegian Parliament urged the government to appoint a committee to analyze the situation of homosexuals. The Norwegian government opted for appointing a Commission in 1985 to consider the circumstances where two people choose to live together outside of marriage and to propose changes providing for better legal protection if necessary. In 1991 the Norwegian Parliament adopted a law on joint households, providing some economic security for any two persons sharing a household for a certain period.³⁴

A few members of the Norwegian Parliament proposed a bill in 1991 on registered partnership which was referred to the government for further analysis. The government then introduced an almost identical bill in 1992, based on an analysis favoring the Danish solution. The explanatory remarks accompanying the bill emphasized marriage as a fundamental institution in society but stated that:

[T]he majority of rules surrounding marriage are based on the need for a regulation of the legal and economic aspects on a partnership and the relationship between the marriage and society. [...] Homosexual partners have the same need for legal regulation and are in this respect more like a married couple than other persons, such as kinfolk or friends that live together, because their emotional closeness will have an equivalent effect on their economic and practical relationship.³⁵

In April 1993 the Norwegian Parliament adopted law No. 40/1993 on registered partnership, in all respects similar to the Danish legislation.

The government introduced a bill allowing for step-parent adoption in 2001 with the aim of securing the rights of children living with a biological parent and its same-sex partner.³⁶ It was argued that these families had the same need for a secure legal regulation in the event of divorce or death as other families for whom step-parent adoption was an option. Children living with a biological parent together with a social same-sex parent in a stable family relationship should therefore be able to enjoy the rights and protection that step-parent adoptions could offer.³⁷ The law was passed and came into force soon after.

³⁴ Law No. 45/1991 on joint households.

³⁵ Ot.prp. No. 32 (1992–1993) [Bill for law on registered partnership].

³⁶ Following the Danish example in excluding children adopted from another Country.

³⁷ Ot.prp. No. 71 (2000–2001) [Bill for changes to the law on adoption and law on registered partnership].

In 2005 a newly reformed coalition government in Norway issued its major policy document promising to recommend changes opening up marriage to same-sex partners. In 2007 the government introduced a bill for the repealing of the law on registered partnership along with changes to the law on marriage, law on children, law on adoption and law on reproductive technologies. The overarching aim was to secure the rights of same-sex persons, to support same-sex partners allowing them to live openly and to actively fight against discrimination.³⁸ The bill was accepted as law in the Norwegian Parliament in 2008 and came into force on 1st January 2009.³⁹ Norway thus became the first of the Nordic Countries to allow persons to enter into marriage regardless of gender. At the same time all the former restrictions on parental consequences of registered partnerships were abolished, effectively allowing same-sex partners to adopt children and lesbian partners the use of reproductive technologies. In debating the best interests of children the bill stated:

In reviewing the current knowledge on children growing up in same-sex families the government refers to changes recently made in Sweden allowing same-sex partners to adopt children, which were founded on a thorough analysis of all relevant research. The result in Sweden was as follows: “Research strongly indicates that same-sex partners are generally qualified to provide stable homes for adopted children and to meet the special needs such children may have.”⁴⁰

Importantly the government also noted that in general restrictions on parenting for same-sex couples were likely to have negative stigmatizing effects on children already living in same-sex families.⁴¹

According to the law on gender neutral marriage those already in a registered partnership in Norway were offered the possibility of changing this to a marriage by a simple declaration. They could also choose to remain in their registered partnership which would then have all the same legal consequences as a marriage.

7.2.4.3 Sweden

In 1973 the Swedish Parliament passed a statement to the effect that cohabitation by two persons of the same sex was a perfectly acceptable form of family life. This statement marked a path towards acceptance and legitimacy in Sweden.⁴²

³⁸ Ot.prp. No. 33 (2007–2008) [Bill for changes to the law on marriage, law on children, law on adoption, law on reproductive technologies (one marriage law for heterosexual and homosexual partners)]. The Norwegians took due note of the Swedish report SOU 2007:17 *Äktenskap för par med samme kön: Vigselsfrågor* [Swedish Government Official Reports: Marriage for person of the same sex, Formalities for entering into marriage] and subsequent proposals in Sweden, see further below in the section on Sweden.

³⁹ Law No. 53/2008.

⁴⁰ Ot.prp. No. 33 (2007–2008), p. 50.

⁴¹ Ot.prp. No. 33 (2007–2008), p. 50 and pp. 61–63. For such arguments see also Friðriksdóttir (1996, 2003).

⁴² Friðriksdóttir (1996), p. 18; Ytterberg (2004), pp. 428–429.

In 1978 a Commission was appointed to analyze and present scientific documentation of homosexuality and to recommend measures aimed at eliminating discrimination of homosexuals. The Commission issued a comprehensive report in 1984. The report rejected the idea of homosexual marriage by referring to the solidly established values in the community concerning marriage as an institution for the formation of families by men and women.⁴³ The idea of a special registration having corresponding consequences to marriage was also rejected on the grounds that the creation of a new legal institution referring solely to homosexuals would imply an unnecessary stigmatization of a group of people. The Commission was in favor of homosexual cohabitation being equated with legislation already in place for unmarried heterosexual couples and such laws were adopted in 1987.⁴⁴

The Swedish government appointed a new Commission in 1991. This Commission issued a report in 1993 declaring its results to be based on an ideological foundation grounded in human equality, both as between individuals and under the law. The Commission stated that one important way of achieving results was: “[To] establish, as far as possible, legal parity between homosexuals and heterosexuals living together.”⁴⁵ The Commission recommended the passing of laws on registered partnership similar to the Danish and Norwegian laws, reasoning that:

The only unquestionable difference between homosexuals and heterosexuals is that homosexuals are emotionally attracted by persons of the same sex. A typical pair relationship between two women or two men is very similar to a pair relationship between a man and a woman. These relationships have the same feelings of love, consideration, tenderness, friendship, loyalty and care. Persons living in homosexual relationships have the same emotional needs to show these feelings both between themselves and outwardly, and to show their desire to live together in a lasting and mutually binding relationship, as persons living in heterosexual relationships [...] We maintain that the parties in a homosexual relationship have the same need for economic and legal security [...] Our proposals imply equating homosexual love with heterosexual love, homosexuals with heterosexuals and, last but not least, the minority with the majority.⁴⁶

In June 1994 the Swedish Parliament adopted law No. 1117/1994 on registered partnership, formulated after the laws in Denmark and Norway.

In 1999 the government appointed a Commission to study and analyze the situation of children in homosexual families, i.e. to scrutinize the justifications underlying legal provisions regarding custody, adoption and reproductive technologies discriminating between same-sex couples and different-sex couples. The

⁴³ SOU 1984:63 *Homosexuella och samhället* [Swedish Government Official Reports: Homosexuals and society].

⁴⁴ Sweden had already adopted law No. 1973:651 on common homes for unmarried couples. The law was replaced by law No. 1987:282 on common homes for cohabitants and law No. 1987:813 on homosexual cohabitation. These laws were later replaced by law No. 376:2003 *Sambolag* [Law on cohabitation] confirming certain rights and obligations on both same-sex and different-sex cohabitants.

⁴⁵ SOU 1993:98 *Partnerskap* [Swedish Government Official Reports: Partnership].

⁴⁶ *Ibidem*, pp. 27–28.

leading principle of the inquiry was to be the best interests of the child. The Commission issued a comprehensive report in 2001.⁴⁷ The Report focused on available research on same-sex parenting and families and conducted some research of its own, aimed at analyzing if and how sexual orientation of parents affected living conditions and the psychological and social development of children. The Commission found that:

All available research confirms that children growing up with homosexual parents develop psychologically and socially similar to other children. No differences can be found as regards sexual development. Some children may experience conflicts at some stages in their lives related to their parents sexual orientation. [...] Research shows that a child's capacity to handle such conflicts depends on the child's relationship with his or her parents. A child growing up in a loving environment, where the child is at the center of its parents love and care, has the capacity to handle such conflicts. The relevant research confirms that there are no differences between homosexual and heterosexual parents' capabilities with regards to providing quality care and support in a child's upbringing.⁴⁸

The report notes that Swedish family law is founded on the general principle of the right of the child to have two parents and that traditionally the best interests of the child had been thought optimal by the child having two parents of opposite sex. In light of current research this was rejected as a justification for restricting the access for same-sex partners to adoption and reproductive technologies.⁴⁹ The Commission proposed to repeal all provisions currently in force prescribing different treatment for registered same-sex partners regarding adoption, joint custody and assisted reproduction.⁵⁰ The government introduced a bill that was passed in 2002 (entering into force in 2003) implementing the aforementioned proposals in the area of adoption and joint custody.⁵¹ The bill remarked that further analysis on parental status was necessary before repealing the restrictions on the use of reproductive technologies for lesbian partners.⁵² These restrictions were then repealed in 2004 (entering into force in 2005) allowing lesbian registered partners and different-sex and same-sex cohabitants access to reproductive technologies.⁵³

The government appointed a special investigator in 2005 with the main task of reporting on all the reasons for or against allowing couples of the same sex to enter

⁴⁷ SOU 2001:10 *Barn i homosexuella familjer* [Swedish Government Official Reports: Children in homosexual families].

⁴⁸ *Ibidem*, p. 15.

⁴⁹ *Ibidem*, p. 22.

⁵⁰ See also Ytterberg (2004), p. 435.

⁵¹ Law No. 2002:603 amending the law on registered partnership and other laws. Contrary to Denmark and Norway no exception was made for step-parent adoption of children adopted from another Country.

⁵² Proposition 2001/02:123 [Government bill, Partnership and adoption].

⁵³ Proposition 2004/05:137 [Government bill, Assisted reproduction and parental status] and law No. 2005:447. The government looked at further aspects of parental status in the report SOU 2007:3 *Föräldraskap vid assisterad befruktning* [Swedish Government Official Reports: Parental status and assisted reproduction].

into marriage. A report was issued in 2007.⁵⁴ It notes that while international obligations could not be interpreted as an obligation to make marriage available to couples of the same sex, the relevant conventions could not be deemed to prevent national legislation from also granting the right to get married to same-sex couples. Defining marriage as a union between a man and a woman might thus not be considered discriminatory in light of human rights obligations but it nonetheless implies “a kind of special disfavored treatment.”⁵⁵ The report compares marriage and registered partnerships, stating:

The legal effect of registered partnership does not differ significantly from marriage. However, in my opinion, marriage may be deemed to have a higher symbolic value. Marriage is traditionally considered to represent a lifelong relationship between a couple, founded on love and consideration and on mutual obligations between the spouses. Although the development of society has resulted in a somewhat different view of marriage, registered partnership does not have the same connotation as marriage in the general public consciousness. For homosexual people, marriage is important as a standard of values, both for their own relationships and for the attitude of those around them. With these points of departure there is consequently no reason for making any distinction between homosexual and heterosexual persons as regards the opportunities to be able to enter into marriage.⁵⁶

The report also addresses, among other things, the deeply rooted societal and religious definition of marriage as a union between a man and a woman. The report emphasizes that a particular perception or definition of a social phenomenon cannot last forever. The view of society on homosexuality was a good example of how shifts in opinion and values and social progress advances can pave the way for fundamental changes.⁵⁷ The conclusion of the report is that the reasons that had been advanced against marriage for couples of the same-sex were not of sufficient substance and could not outweigh the reasons that supported a statutory amendment extending the right to marriage to same sex couples. A bill for amending the law on marriage and repealing the law on registered partnership was subsequently introduced in the Swedish Parliament in 2009. The law accepting gender neutral marriage came into force on 1st May 2009.⁵⁸

⁵⁴ SOU 2007:17 *Äktenskap för par med samma kön: Vigsselfrågor* [Swedish Government Official Reports: Marriage for person of the same sex, Formalities for entering into marriage].

⁵⁵ *Ibidem*, p. 33.

⁵⁶ *Ibidem*, at note 55, p. 32.

⁵⁷ *Ibidem*, p. 33.

⁵⁸ Law No. 253:2009 on amendments to the law on marriage and law no. 260:2009 repealing the law on registered partnership. The treatment of registered partnerships already established in Sweden is similar to the situation in Norway, as described above.

7.2.4.4 Iceland

The Icelandic Parliament passed a resolution in 1992 commanding the government to appoint a Commission to explore the legal, cultural and social situation of homosexuals and to propose measures to abolish discrimination against homosexuals in Iceland. The Commission was appointed in 1993 and issued a report in 1994.⁵⁹ The majority of the Commission recommended the adoption of laws similar to those already adopted in Denmark, Norway and Sweden. The minority demanded full equality within family law. In February 1996 the government introduced a bill for registered partnership similar to the laws in the aforementioned Countries.⁶⁰ In June 1996 the Icelandic Parliament adopted law No. 87/1996 on registered partnership, formulated after the laws in Denmark, Norway and Sweden.

There was one significant difference with regards to the parental consequences. At this time Iceland began making distinctions between the legal situation of children already living with a homosexual parent/s and the legal possibilities of becoming parents. The Icelandic law thus assumed joint custody of children in homosexual relationships already in 1996.⁶¹

In 2000 the Government introduced a proposal widening the categories of those able to register their partnership in Iceland. A parliamentary committee further proposed to open up step-parent adoption for same sex couples and the law on registered partnership was subsequently amended.⁶²

In 2001 the government introduced a special report in Parliament on the legal status of cohabitants, highlighting the somewhat precarious situation of same-sex cohabitants in Icelandic legislation.⁶³ Parliament adopted a resolution on further analysis of the legal status of same-sex partners and the government appointed a Commission in 2003. The Commission issued a comprehensive report in 2004 and the government subsequently introduced a bill for several amendments in 2005. The bill emphasized recent positive developments in law and in society for homosexuals and stated that the discussions surrounding the law on registered partnership had facilitated growing acceptance of homosexuality as such and particularly of

⁵⁹ *Skýrsla nefndar um málefni samkyhnneigðra (1994)* [Official Report from the Commission on homosexual issues].

⁶⁰ An actual translation of the terms from Icelandic would be: confirmed partnership. The main reason was to avoid confusion as in Iceland it is possible for unmarried cohabitants to register their cohabitation with the National Registry. In some areas of law such registration is required in order for unmarried cohabitation to have legal effects. In spite of this the official English translation of the Icelandic law used the term registered partnership.

⁶¹ Alþt. 1995–1996, þskj. 564 [Icelandic Parliament 1995–1996, doc. no. 564]. Of the Nordic Countries, Iceland also has the widest scope for legal rights and duties of stepparents. According to the Icelandic laws a stepparent in a homosexual relationship could thus acquire joint custody with the birth parent and retain custody after the death of the birth parent, unless challenged.

⁶² Law No. 52/2000 on amendments to the law on registered partnership. Following Denmark and Norway with respect to inter-countries adoptions.

⁶³ Parliamentary document no. 935: 2000–2001 Report on the legal status of cohabitants.

homosexual family life. The most important issues in the bill were firstly proposals equating same-sex cohabitation with different-sex cohabitation and secondly proposals repealing all restrictions on allowing same-sex partners access to full adoption and to reproductive technologies.⁶⁴ The reasoning for accepting same-sex parenting was the same as had facilitated similar changes in Sweden in 2003 and 2005. The bill was accepted into law and came into effect in 2006.⁶⁵

The law on registered partnership was amended again in 2008. After discussions between the government and the Church of Iceland an agreement was reached on opening up the possibility of solemnizing registered partnerships in religious ceremonies. In passing these amendments in Parliament it was noted that the next logical step had to be to amend the law on marriage. A newly formed government in 2009 avowed in its main policy document to propose changes securing a gender neutral marriage, a bill was introduced and accepted in 2010. Law repealing the law on registered partnership and amending the law on marriage making the institution gender neutral, with the explicit aim of securing full equality, came into force in Iceland on June 27, 2010.⁶⁶

7.2.4.5 Finland

The Ministry of Justice in Finland appointed a Commission on family issues in 1991 which issued a report in 1992.⁶⁷ The Commission recommended the passing of laws on registered partnerships but the proposal was rejected by the Finnish Parliament.⁶⁸ The Government set up another Commission in 1997 which recommended the same in its report from 1999.⁶⁹ A bill for registered partnership was introduced in 2000 and in 2001 the Finnish Parliament adopted law No. 950/2001 on registered partnership, formulated after the laws in Denmark, Norway, Sweden and Iceland.⁷⁰ The law entered into force in March, 2002.

⁶⁴ Members of the aforementioned Commission had debated the latter issues and although they accepted that there were no discernible differences between heterosexuals and homosexuals as parents, relying mostly on the Swedish report from 2001, their proposals had not been unanimous.

⁶⁵ Law No. 65/2010 amending the law on registered partnership and several other laws.

⁶⁶ Law No. 65/2010 on changes to the law on marriage and others laws. The treatment of registered partnerships already established in Iceland is similar to the that of Norway and Sweden, as described above. It is worth noting that the law on registered partnership in Iceland entered into force on the same date, June 27 1996, symbolic since the Stonewall uprising in 1969, and the same applies to most of the subsequent amendments to the legislation in Iceland.

⁶⁷ *Familjekommission betänkande 1992:12* [Finnish Government Official Report: The Family Commission].

⁶⁸ See further Savolainen (2003), pp. 26–27.

⁶⁹ *Justitieministeriets Betänkande 1999:2* [Ministry of Justice Report].

⁷⁰ The law came into force in 2002. Registered partners in Finland can also obtain joint custody of a child.

In May 2002 the government appointed a Commission to investigate the legal rights of registered couples, including the possibility of adoption rights and assisted reproduction.⁷¹ At this time there was no legislation in Finland regulating access to reproductive technologies and private clinics treated lesbian couples and single women.⁷² Law on assisted reproduction was passed in 2006, effectively allowing a woman in a registered partnership access to reproductive technologies, though without establishing her partner as the co-parent of the child.⁷³

In accordance with the main policy of the Finnish government a bill was introduced in 2008 allowing for step-parent adoptions for registered partners. The main goal was to strengthen the position of children already in same-sex families.⁷⁴ The bill was accepted as law which entered into force in 2009.⁷⁵

As mentioned before, proposals for full adoption rights and gender neutral marriage have been introduced in the Finnish Parliament, but such proposals have all been rejected.

7.3 Conclusionary Remarks

When you look at the developments of the recognition of same-sex relationships within family law in the Nordic Countries, one of the most outstanding features is how rights/equality has been furthered step by step exclusively through the legal democratic processes. This resonates with the characteristics of the Nordic model described earlier where values implicit in formal laws are internalized and embedded as social norms and as such are not challenged through the judiciary.⁷⁶

This also relates to the practice of judicial review. The Nordic Countries adopted theories and practices of judicial review in the late Nineteenth or very early in the twentieth century. After the middle of the twentieth century they in general developed a flexible interpretation of their constitutions creating a notable leeway for the legislature to address various issues. The awareness of separate roles of the legislature and the judiciary became evident with a focus on the need for judicial deference to the Parliaments with a high degree of respect for the democratic process of lawmaking.⁷⁷ This practice has in many ways been dominant in Nordic

⁷¹ It has been argued that the Finnish gay and lesbian movement focused more on parenthood in their campaign for registered partnership than in any other Nordic Country: see Rydström (2011), p. 123.

⁷² Hiltunen and Waaldijk (2004), p. 82.

⁷³ The issues had been hotly debated for many years as described in the bill, RP 3/2006, which became law No. 1237:2006 on assisted reproduction.

⁷⁴ RP 198/2008 [Bill for amending the law on registered partnership].

⁷⁵ Law No. 391:2009 amending the law on registered partnership.

⁷⁶ Berggren and Trägårdh (2011), p. 19.

⁷⁷ Helgadóttir (2006), pp. 251–254.

constitutional law apart from the last few decades when international and regional human rights conventions have had a growing impact on the development of constitutional interpretation. This has to some extent changed the ways Nordic courts exercise judicial review but they have never been known for radical judicial activism.

The expansion of same-sex relationship rights in the Nordic Countries owes much to the presence of strong gay and lesbian organizations cooperating with favorable governments.⁷⁸ It has been pointed out that the way this Nordic state/civil society interaction has been institutionalized and routinized may provide useful inspiration to others.⁷⁹ This cooperation has most notably been channeled through well prepared and researched government bills and/or government appointed commissions armed with the task of providing practical and theoretical analysis of the situation in society and law and proposing acceptable amendments to the legal order. This approach can be time consuming and the amount of time and energy spent has differed from one Country to another at different points in time. This can partly explain why laws have been amended at different times in the Nordic countries.⁸⁰

Many have recognized the step by step approach in the movement towards full equality, or how certain legal steps pave the way for further and greater recognition. Waaldijk refers to working of the “law of small change” and describes how the recognition of homosexual relationships has been governed by a clear pattern of steady progress according to standard sequences.⁸¹ It is interesting to note how this applies to the development within the Nordic Countries. Within family law the turning point was the acceptance of the legitimacy of homosexual families through the introduction of registered partnership legislation. The next logical step was acknowledging same-sex families already having children, then the acceptance of same-sex partners as legitimate parents and finally gender neutral marriage.

It is also interesting to look at the interaction between the Nordic Countries in this respect. The legal reforms are obviously not the results of formal cooperation between the Countries but the reforms are intrinsically linked together.⁸² A

⁷⁸ Merin (2010), p. 66. Rydström (2011), p. 168 suggests that a de-radicalisation of the movements is an important factor in explaining why gay marriage became a priority for the national gay and lesbian movements and why it had any chance to be accepted by mainstream society.

⁷⁹ Berggren and Trägårdh (2011), p. 27.

⁸⁰ Glass et al. (2012), p. 170, compared the extension of marriage rights for same sex couples in five Countries—the Netherlands, Belgium, Norway, Sweden and Spain—and concluded that the single most important factor predicting the extension was the ascension of a strong leftist ruling party or coalition.

⁸¹ Waaldijk (2004) pp. 439–440. Fassin (2004), p. 188 notes how history supports the optimistic narrative. See also Adams, p. 273, and Lund-Andersen (2003), p. 23.

⁸² Finland does lag a little behind the other Nordic Countries. One possible reason can be the fact that the Icelandic, Danish, Norwegian and Swedish languages are very closely related and the last three are largely understood in the other Countries. Finnish is of quite another origin and this may hamper successful formal and informal cooperation on legal matters.

government commission in a Nordic Country requested to analyze a certain situation routinely looks closely at the developments in the other Nordic Countries (and also often further abroad). The impact is twofold, firstly the Nordic Countries seek a level of uniformity for practical reasons and secondly accepted theoretical and legal analysis in one Nordic Country can greatly affect understanding and social norms in another.⁸³ This is obvious when looking at registered partnership. The introduction of registered partnership legislation was a revolutionary step in the development of modern family law.⁸⁴ This formulation was the result of a long debate in Denmark and was in many ways a political tactic as a way of securing important rights by steering clear of the most contested issues (direct access to marriage and parenting).⁸⁵ The Danish model was relatively quickly followed in the other Nordic Countries without much theoretical debate on the formulation of this (or any other possible) new family law institution.

It is also important to note how the formulation of this new family institution steered the debate well away from a long (and still) contested area of the legal differences between marriage and unmarried cohabitation in society in general. The Nordic Countries have never in any real sense debated whether registered partnership should be available to different-sex partners. Registered partnership was always seen as equivalent to marriage as a starting point, which different-sex partners could choose if they wanted to, with restrictions of rights no one thought conceivable that any different-sex partners would wish for.⁸⁶ This is also evident from the fact that Norway, Sweden, Iceland and Denmark have all repealed the laws on registered partnership upon accepting gender neutral marriage laws.

The laws on registered partnership were of tremendous symbolic importance in making same-sex families with children and wishing to have children more visible.⁸⁷ The comprehensive Swedish research report from 2001 on same-sex parenting had a clear strong impact in Iceland, Denmark and Norway, paving the way for new accepted values and norms in society and finally in law. The same can be said about the Swedish report from 2007 legitimizing the idea of same-sex marriage. Having repealed, or being in the throes of repealing, all restrictions or differences in treatment of registered partners and married couples, Norway, Sweden, Iceland and Denmark quickly rejected the separate but equal doctrine⁸⁸ and embraced gender neutral marriage with almost identical reasoning.

⁸³ Jänterä-Jareborg, p. 148 speaks of the importance of the uniformity of approach.

⁸⁴ Scherpe (2007), p. 286.

⁸⁵ Adams, p. 273. Rydström (2011), p. 168, suggests that the idea of a separate registration for homosexuals was not originally Nordic but was discussed in different European gay and lesbian movements in the 1960s.

⁸⁶ Fassin (2004), p. 188 uses the term “quasi-marriage”. In admitting same-sex partners into a legal realm alongside of marriage, albeit with restrictions, it also became almost self evident that same-sex cohabiting partners would automatically enjoy the same legal rights and protection afforded the less revered institution that cohabiting different-sex partners enjoyed in various areas of law.

⁸⁷ Lund-Andersen (2004), pp. 425–426.

⁸⁸ Ytterberg (2003), p. 8.

It is quite amazing to see the strong legal reasoning by the governments and Parliaments in Norway, Sweden, Iceland and Denmark for accepting gender neutral marriage, being almost identical to the powerful and reasonable pleas for equality and non-discrimination so thoroughly rejected by the same governments a few decades before.⁸⁹ It is theoretically possible that positive outcomes might have come about more speedily through the judicial process at one point or another but the societal and political deliberations (‘the learning curve’) most certainly were not hampered by the possible stifling effects of a negative judgment in court.

References

- Adams B (2003) The defence of marriage act and American exceptionalism: the “Gay Marriage” Panic in the United States. *J Hist Sex* 12:259–276
- Arter D (2006) *Democracy in Scandinavia: consensual, majoritarian or mixed?* Manchester University Press, Manchester/New York
- Berggren H, Trägårdh L (2011) Social trust and radical individualism: the paradox at the heart of Nordic capitalism. In: *Shared norms for the new reality: the Nordic way*. World economic forum Davos, Stockholm, pp 13–27. <http://www.globalutmaning.se/wp-content/uploads/2011/01/Davos-The-nordic-way-final.pdf>
- Bernitz U (2007) What is Scandinavian law? *Scand Leg Stud* 50:13–30
- Betäckning No. 1127/1988 Homoseksuelles vilkår [Official Governmental Report The situation of homosexuals]
- Et Danmark – der står sammen (2011) Regeringen, Danmark [A Denmark that stands together, The Government, Denmark]. http://www.stm.dk/multimedia/Regeringsgrundlag_uk_2011.pdf
- Familjekommission betänkande 1992:12 [Finnish Government Official Report, The Family Commission]
- Fassin E (2004) Sociological questions: an epilogue to “More or less together”. In: Waaldijk K (ed) *More or less together: levels of legal consequences of marriage, cohabitation and registered partnership for different-sex and same-sex partners*. Ined, Paris, pp 187–192
- Friðriksdóttir H (1996) The Nordic gay and lesbian “marriage”: no children allowed. LLM thesis, Harvard Law School
- Friðriksdóttir H (2003) Leyfilegar og óleyfilegar fjölskyldur: Mannréttindi og lagaleg staða samkynhneigða fjölskyldna [Accepted and unaccepted families: human rights and the legal situation of same-sex families]. In: Traustadóttir R, Kristinsson Þ (eds) *Samkynhneigðir og fjölskyldulíf* [Gays, lesbians and family life]. Háskólaútgáfan, Reykjavík, pp 47–74
- Friðriksdóttir H (2010) Ein hjúskaparlög fyrir alla [One marriage laws for all]. In: *Heiðursrit Ármann Snævarr 1919–2010* [In honor of Ármann Snævarr]. Codex, Reykjavík, pp 233–258
- Friðriksdóttir H (2012) Munur á hjúskap og óvígðri sambúð [The difference between marriage and unmarried cohabitation]. *Úlfjótur* 65:149–190
- Friedman L (1990) *The republic of choice*. First Harvard University Press, Cambridge
- Giczi J, Sik E (2009) Trust and social capital in contemporary Europe. In: Tóth IG (ed) *Tárki European Social Report 2009*, pp 63–81
- Glass CM et al (2012) Toward a European model of same-sex marriage rights: a viable pathway for the US. *Berkley J Int Law* 29:132–174
- Greve B (2007) What characterise the Nordic welfare state model. *J Soc Sci* 3:43–51

⁸⁹ Friðriksdóttir (1996, 2003, 2010).

- Helgadóttir R (2006) *The influence of American theories of judicial review on Nordic constitutional law*. Martinus Nijhoff Publishers, Leiden/Boston
- Hiltunen R, Waaldijk K (2004) Major legal consequences of marriage, cohabitation and registered partnership for different-sex and same-sex partners in Finland. In: Waaldijk K (ed) *More or less together: levels of legal consequences of marriage, cohabitation and registered partnership for different-sex and same-sex partners*. Ined, Paris, pp 79–92
- Jäterä-Jareborg M (2003) Registered partnerships in private international law: the Scandinavian approach. In: Boele-Woelki K, Fuchs A (eds) *Legal recognition of same-sex couples in Europe*. Intersentia, Antwerp/Oxford/New York, pp 137–158
- Lund-Andersen I (2003) The Danish registered partnership act. In: Boele-Woelki K, Fuchs A (eds) *Legal recognition of same-sex couples in Europe*. Intersentia, Antwerp/Oxford/New York, pp 13–23
- Lund-Andersen I (2004) The Danish registered partnership act, 1989: has the act meant a change in attitude? In: Wintemute R, Andenæs M (eds) *Legal recognition of same-sex partnerships: a study of national, European and international law*, 2nd edn. Hart Publishing, Oxford-Portland, pp 417–426
- Merin Y (2010) *Equality for same-sex couples: the legal recognition of gay partnerships in Europe and the United States*. The University of Chicago Press, Chicago
- Persson T, Wiberg M (2011), *The Nordic model of parliamentary government and its challenges*. In: *Parliamentary government in the Nordic countries at a crossroads: coping with challenges from Europeanisation and Presidentialisation*. Santérus Academic Press, Stockholm, pp 17–40
- Rydström J (2011) *Odd couple: a history of gay marriage in Scandinavia*. Aksant, Amsterdam
- Savolainen M (2003) The Finnish and the Swedish partnership acts – similarities and divergences. In: Boele-Woelki K, Fuchs A (eds) *Legal recognition of same-sex couples in Europe*. Intersentia, Antwerp/Oxford/New York, pp 24–40
- Scherpe JM (2007) The Nordic countries in the Vanguard of European family law. *Scand Leg Stud* 50:265–288
- Skýrsla nefndar um málefni samkynhneigðra (1994) *Forsætisráðuneytið. Ísland 1994* [Official Report from the Commission on homosexual issues, Office of the Prime Minister, Iceland]
- SOU 1984:63 *Homosexuella och samhället* [Swedish Government Official Reports: Homosexuals and society]
- SOU 1993:98 *Partnerskap* [Swedish Government Official Reports: Partnership]
- SOU 2001:10 *Barn i homosexuella familjer* [Swedish Government Official Reports: Children in homosexual families]
- SOU 2007:3 *Föräldraskap vid assisterad befruktning* [Swedish Government Official Reports: Parental status and assisted reproduction]
- SOU 2007:17 *Äktenskap för par med samme kön: Vigsselfrågor* [Swedish Government Official Reports: Marriage for person of the same sex, Formalities for entering into marriage]
- Svenson E, Pylkkänen A (2004) Contemporary challenges in Nordic feminist legal studies. In: Svenson et al. (eds) *Nordic equality at a crossroads: feminist legal studies coping with difference*. Ashgate Publishing Limited, Aldershot, pp 17–46
- Waaldijk K (2004) Small change: how the road to same-sex marriage got paved in the Netherlands. In: Wintemute R, Andenæs M (eds) *Legal recognition of same-sex partnerships: a study of national, European and international law*, 2nd edn. Hart Publishing, Oxford-Portland, pp 437–464
- Ytterberg H (2003) All human beings are equal, but some are more equal than others – equality in dignity without equality in rights? In: Boele-Woelki K, Fuchs A (eds) *Legal recognition of same-sex couples in Europe*. Intersentia, Antwerp-Oxford-New York, pp 1–10
- Ytterberg H (2004) From society's point of view, cohabitation between two persons of the same sex is a perfectly acceptable form of family life: a Swedish story of love and legislation. In: Wintemute R, Andenæs M (eds) *Legal recognition of same-sex partnerships: a study of national, European and international law*, 2nd edn. Hart Publishing, Oxford-Portland, pp 427–436