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COI QUERY

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The target audience is caseworkers, COI researchers, policy makers, and decision making authorities. The answer was finalised on 13 October 2021. Any event taking place after this date is not included in this answer.

COI QUERY RESPONSE - IRAQ

Situation of LGBT persons in Iraq

1. Legislation on LGBT issues

According to Article 14 of Iraq's 2005 Constitution, 'Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, colour, religion, sect, belief or opinion, or economic or social status'.¹

According to the United States Department of State (USDOS), the Iraqi Penal Code (Law No. 111 of 1969)² 'criminalizes consensual same-sex conduct if those engaging in the conduct are younger than age 18, while it does not criminalize any same-sex activities among adults'.³ According to Human Rights Watch, 'Article 394 of Iraq's penal code makes it illegal to engage in extra-marital sex, a violation of the right to privacy that disproportionately harms lesbian, gay, bisexual, and transgender (LGBT) people'. Human Rights Watch also draws attention to Paragraph 401 of the Code regarding so-called 'immodest acts', which is described as 'a vague provision that could be used to target sexual and gender minorities'.⁴

Similarly, Human Rights Watch also pointed out that '[p]aragraph 210 prohibits the dissemination of any information or idea that "disturbs the public peace," while paragraphs 403 and 404 penalize any "obscene or indecent publication or speech"', provisions which have the potential to be used against LGBT persons and activists.⁵

In a 2020 report, the International Lesbian and Gay Association (ILGA) stated that 'Article 10 of Iraq's Law of Non-Governmental Organizations (Law No. 12) (2010) forbids all NGOs from "conducting any activities or pursuing any goals that violate the constitution or other Iraqi laws"'. According to the source, 'the General Secretariat of the Iraqi Council of Ministers has reportedly denied permission to at least one queer organisation to operate locally', relying on that particular legislation.⁶

2. Treatment by the State of LGBT persons

USDOS stated in its 2020 report on human rights practices in Iraq that '[d]espite repeated threats and violence targeting [...] LGBTI [lesbian, gay, bisexual, transgender and intersex] individuals, specifically gay men, the government failed to identify, arrest, or prosecute attackers or to protect targeted individuals'. The same source quoted unnamed NGOs, who claimed that 'Iraqis who experienced severe discrimination, torture, physical injury, and the threat of death on the basis of real or perceived sexual orientation, gender identity and expression, and sex characteristics' were

¹ Iraq, Constitution of the Republic of Iraq, 2005, [url](#)

² Iraq, Iraqi Penal Code (Law No. 111 of 1969), [url](#)

³ USDOS, Iraq 2020 Country Report on Human Rights Practices, 30 March 2021, [url](#)

⁴ HRW, World report 2021: Iraq, 13 January 2021, [url](#)

⁵ HRW, Audacity In Adversity: LGBT Activism in the Middle East and North Africa, April 2018, [url](#), Annex, p. 66

⁶ ILGA, State-Sponsored Homophobia Global Legislation Overview Update, December 2020, [url](#), p. 174

not able 'to challenge those actions via courts or government institutions'.⁷ Similarly, in its 2021 World Report, Human Rights Watch stated that 'over the years authorities have not held accountable perpetrators, including security forces, of kidnappings, torture, and killings of people perceived as gay and transgender'.⁸

On 27 March 2020, LGBT activists were quoted in a media report expressing 'fear of violence from the state security forces', should they openly 'display their sexual orientations'.⁹

On 18 May 2020, the Iraqi foreign ministry along with other officials, condemned the decision of the embassies of Canada, the United Kingdom and the European Union, as well as of the World Bank office, in Baghdad to raise the rainbow flag on 17 May 2020 to celebrate the International Day Against Homophobia, Transphobia, and Biphobia.¹⁰

On 9 April 2021, a report by Voice of America stated that, during the previous week, 'Kurdish security forces in Sulaymaniyah reportedly arrested several gay men. The government denied targeting the group, saying its operation was rather to crack down on prostitution'.¹¹

3. Treatment by Society of LGBT persons

A media report of 27 March 2020 quoted LGBT activists expressing their reluctance to openly display their sexual orientation due to the fear of being targeted in particular by 'various religious-affiliated militias', claiming that 'their lives could be in danger'.¹²

On 28 March 2020, Iraqi Shi'ite cleric leader Muqtada al-Sadr expressed opposition against gay marriage on a social media network, claiming that the legalisation in various countries of same-sex marriage had 'caused the outbreak of the coronavirus pandemic'.¹³

On 17 May 2020, several foreign embassies and the World Bank office in Baghdad raised the rainbow flag to celebrate the International Day Against Homophobia, Transphobia, and Biphobia.¹⁴ In addition to objections by government officials, the move was met with 'strenuous objections by Islamic parties and PMU [Popular Mobilization Units/ Popular Mobilization Forces] militias'.¹⁵ According to USDOS quoting unnamed media sources, 'a few days after the rainbow flag was raised [...] a young gay man was killed in Baghdad's Sadr City neighbourhood, and another in Babil Province, in an apparent backlash against the flag raising'.¹⁶

On 22 May 2020, a media report stated that 'LGBT rights are non-existent in Iraq, where homosexuality, transgenderism, and cross dressing are highly taboo among Muslims and minority

⁷ USDOS, Iraq 2020 Country Report on Human Rights Practices, 30 March 2021, [url](#)

⁸ HRW, World report 2021: Iraq, 13 January 2021, [url](#)

⁹ The New Arab, 'We are here': The LGBT activists on the frontline of Iraq's revolution, 27 March 2020, [url](#)

¹⁰ The New Arab, Baghdad demands apology after EU embassies raise 'LGBTQ rainbow flag' in Iraqi capital, 18 May 2020, [url](#); Kurdistan 24, Iraq condemns foreign embassies for violating country's 'values' by displaying rainbow flag, 17 May 2020, [url](#)

¹¹ VOA, LGBTQ Members Face Threats in Iraqi Kurdistan, 9 April 2021, [url](#)

¹² The New Arab, 'We are here': The LGBT activists on the frontline of Iraq's revolution, 27 March 2020, [url](#)

¹³ MEE, Coronavirus: Iraqis criticise Muqtada al-Sadr for same-sex marriage claims, 30 March 2020, [url](#)

Jerusalem post (The), Pro-Iran cleric in Iraq says same-sex marriage caused coronavirus, 29 March 2020, [url](#)

¹⁴ The New Arab, Baghdad demands apology after EU embassies raise 'LGBTQ rainbow flag' in Iraqi capital, 18 May 2020, [url](#); Kurdistan 24, Iraq condemns foreign embassies for violating country's 'values' by displaying rainbow flag, 17 May 2020, [url](#)

¹⁵ Al Monitor, Rainbow flags over Baghdad fan debate, spur fear, 27 May 2020, [url](#)

¹⁶ USDOS, Iraq 2020 Country Report on Human Rights Practices, 30 March 2021, [url](#); Shafaq, Gunmen assassinate "Gay" person in Baghdad, 20 May 2020, [url](#)

Christians alike'.¹⁷

In June 2020, Iraqueer, an Iraqi NGO working to advance LGBT+ rights, published a report on the 'spread of anti-LGBT+ rhetoric' in the Iraqi media. According to the organisation, the 'majority of media coverage' in Iraq 'is biased against the LGBT+ community, reinforcing discriminatory ideas that LGBT+ individuals are alien to Iraqi society, and that LGBT+ identities are ailments that must be treated and eradicated'.¹⁸

On 1 October 2020, the Middle East Eye media outlet stated that 'LGBTQ [lesbian, gay, bisexual, transgender and queer] people in the country have for years faced the threat of violence, with many murders taking place at the hands of armed groups that face little to no accountability'. The same source quoted a protestor in Baghdad, who stated that her announcement of being gay had caused her 'problems, including threats by militias'. The report also highlighted the ongoing 'campaign of violence by non-state armed groups in Iraq' against various groups including 'LGBTQ people', which had 'led to increasing calls for the government to rein in the militias and hold them accountable for their actions'.¹⁹

In its 2021 Freedom in the World report, Freedom House stated that 'LGBT+ people are unable to enjoy equal political rights in practice due to harsh societal discrimination, and the main political parties do not advocate for the interests of LGBT+ people in their platforms'. The same source highlighted that, while same-sex relations 'are not explicitly prohibited, [...] LGBT+ people risk violence if they are open about their identity'.²⁰

According to USDOS, LGBTI individuals in the Kurdistan Region of Iraq (KRI) 'also faced intimidation, threats, violence, and discrimination'. The source quoted accounts of LGBTI individuals who stated that 'they could not live openly' in the KRI due to fearing 'violence at the hands of family members, acquaintances, or strangers'. Moreover, LGBTI individuals in the KRI 'struggled to be accepted' by their families and community, and 'disguised their identity from their families due to fear of violence, verbal abuse, and killing'.²¹

On 6 May 2021, a media report quoted an Iraqi refugee in the United Kingdom, stating that he had 'been badly beaten and thrown in prison three times for being gay' in his native city of Sulaymaniyah, in the KRI.²²

A 2021 report by ILGA-Asia stated that 'LGBTIQ [lesbian, gay, bisexual, transgender/transsexual, intersex and queer] people continue to face risks when trying to get treatment for sexually transmitted infections (STI), especially when the STI could indicate the type of sex they have', with such people facing 'the risk of being outed to the police by the doctor'. The same source stated that 'LGBTIQ Iraqis often find themselves either being kicked out by their families or escaping them as their lives are in danger', while also highlighting that the 'lack of employment opportunities for many LGBTIQ people, especially those who have nonconforming gender expressions, or those that do not match their gender markers, further marginalizes them'.²³

In a June 2020 report covering the period April 2019-March 2020, USDOS stated that, among other groups, LGBTI persons in the KRI were 'particularly vulnerable to sex trafficking. LGBTI individuals across all ethnic and religious groups remained at risk of sex trafficking primarily because of cultural stigmas'.²⁴ In its subsequent 2021 report focusing on the period April 2020-March 2021, USDOS

¹⁷ New Arab (The), The Iraq Report: LGBT flag sparks outcry as embassy spat rages, 22 May 2020, [url](#)

¹⁸ Iraqueer, BIASED - Iraqi Media and the Spread of Anti-LGBT+ Rhetoric, June 2020, [url](#), p. 4

¹⁹ MEE, LGBTQ activists in Iraq will 'not hesitate' to keep on protesting despite threats, 1 October 2020, [url](#)

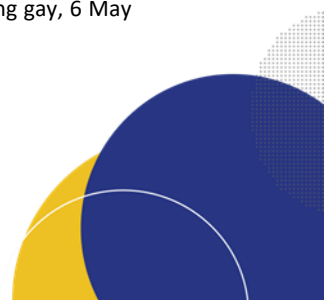
²⁰ Freedom House, 2021 Freedom in the World Iraq, 3 March 2021, [url](#)

²¹ USDOS, Iraq 2020 Country Report on Human Rights Practices, 30 March 2021, [url](#)

²² Pink News, Brave Iraqi refugee fled to the UK after being brutally beaten and thrown in prison just for being gay, 6 May 2021, [url](#)

²³ ILGA Asia, Lives at risk: The perpetual struggles of LGBTIQ people in Iraq, 2021, [url](#), p. 10

²⁴ USDOS, 2020 Trafficking in Persons Report: Iraq, 25 June 2020, [url](#)



confirmed its previous assessment regarding the risks faced by LGBTI persons in the KRI.²⁵

In August 2021, Oxfam published the results of a social research study in Iraq focusing on gender issues. Among others, it was found that the ‘most stigmatized and rejected traits of masculinities’ were ‘those that counter traditional customs and cultural practices. These include behaviours that are considered transgressions against traditional religious norms, beliefs, and morals’, including homosexuality.²⁶

²⁵ USDOS, 2021 Trafficking in Persons Report: Iraq, 1 July 2021, [url](#)

²⁶ Oxfam, Social Norms Structuring Masculinities, Gender Roles, and Stereotypes, August 2021, [url](#), p. 17

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