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STATE-SPONSORED HOMOPHOBIA

**A WORLD SURVEY OF SEXUAL ORIENTATION LAWS:
CRIMINALISATION, PROTECTION AND RECOGNITION**

12TH EDITION

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This report is available to download in Word or PDF formats.

Digital versions of the four ILGA maps of LGB legislation in the world are available for print.

State-Sponsored Homophobia and its world maps are published simultaneously in English and Spanish, and will be available in Arabic, Chinese, French and Russian.

Download the maps and reports at <http://ilga.org> or contact info@ilga.org

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to prosecution in most Western countries in the not too distant past". Iran will be before the UPR again in April 2019 for its 3rd cycle sessions.

The situation for LGBTI in Iran people is well illustrated in a 2014 [interview](#) recorded on the website *76 Crimes*. Outright Action International have produced a series of reports on the situations of sexual and gender minorities in Iran, and keep an up to date [archive](#) of relevant information from the country.

However, on 4 April 2014, Iran's [Supreme Leader](#) described "homosexuality" as "moral bankruptcy" and "[libidinous behaviour](#)". On 24 September 2014, the Iranian Speaker of Parliament [described](#) "homosexuality" as "modern Western barbarism". The Supreme Council of National Security (SCNS) censored official journalists, forbidding them from [covering certain topics](#) including SOGIESC-related rights, in the name of ensuring national security.

The Committee on the Rights of the Child [addressed](#) Iran in February 2016. In line with civil society [submissions](#), it spoke of being concerned with on-going discrimination of LGBTI children, and punishments of same-sex sexual behaviour of adolescents who are above the age of criminal responsibility "ranging from flogging to death penalty" [para. 31]. It also expressed concern that young people have no information on LGBTI issues, and trans people are forced into surgery [para.71], and urges reversal of such policies [para.72].

These, and other, concerns were more fully elaborated in the [Joint Submission](#) at the Interactive Dialogue with the Special Rapporteur on the situation of human rights in Iran, delivered by ARC-International in March 2016.

IRAQ



After the American invasion in 2003 the [Penal Code](#) of 1969 was reinstated in Iraq. This code does not prohibit same-sex relations.

Article 404

[MORALITY CODE LIMITING SOGI PUBLIC EXPRESSION]

"Any person who himself or through some mechanical means sings or broadcasts in a public place obscene or indecent songs or statements is punishable by a period of detention not exceeding 1 year or by a fine not exceeding 100 dinars."

Non-State actors in Iraq including Sharia judges, are known to order executions of men and women for same-sex sexual behaviour, despite the fact that Iraq's civil code is silent on same-sex sexual behaviour, and the country's legal system does not defer to the Sharia court. It is also known that both police and militias have frequently kidnapped, threatened and killed LGBT people, as [documented](#) by OutRight since 2014, and charted on their [Timeline](#).

The Daesh (or ISIS / ISIL) held areas of northern Iraq and northern Syria, are known to target men and women on account of their gender expression, gender identity and their sexual orientation. The *Nusr* ['Victory' in Arabic] [website](#), which claims to be the website of the Islamic Caliphate, has a section on Legal Jurisprudence (evidence-based rules and the Penal Code). One of the pages under this section is dedicated to "Punishment for Sodomy", which states: "The religiously-sanctioned penalty for sodomy is death, whether it is consensual or not. Those who are proven to have committed sodomy, whether sodomiser or sodomised, should be killed..."

Iraq accepted [the only](#) recommendation given to it (from France) with SOGI content in 2nd UPR in October 2014: "Guarantee equality of civil and political rights. Avoid all forms of discrimination based on ethnicity, religion, gender or sexual orientation": this remained unaddressed in the delegation's formal response.

In 2015, the United Nation Human Rights Committee that oversees the International Covenant on Civil and Political Rights (ICCPR) issued its Concluding Observations to Iraq. These included (at paras. 11 and 12) **concerns** on the stigmatisation and social exclusion of people on the basis of SOGI, and their inability to publicly demonstrate peacefully. The Committee acknowledged, "... diversity of morality and cultures must [...] always be subject to the principles of universality of human rights and non-discrimination". The State should, therefore, "vigorously" combat stereotypes, ensure enjoyment of Covenant rights to all, investigate, prosecute perpetrators and compensate victims, collect data on SOGI-related crime, and create anti-discrimination legislation that lists SOGI as a ground for protection".

Earlier in 2015, the United Nations Committee Against Torture - in relation to reliable reports before it – at para. 25 **expressed** concern that these attacks occur regularly and with impunity, at times leading to death. As such, Iraq should "take effective measures to prevent violence based on real or perceived sexual orientation and gender identity and ensure that all acts of violence are investigated and prosecuted promptly, effectively and impartially, perpetrators brought to justice and victims provided redress".

KUWAIT



Penal Code, Law No.16 of 2 June 1960, as amended in 1976.

Article 193

[CONSENSUAL INTERCOURSE BETWEEN MEN]

"Consensual intercourse between men of full age (from the age of 21) shall be punishable with a term of imprisonment of up to seven years." Such relations with a man under 21 years of age are criminalised by article 192.

Article 198

[MORALITY CODE LIMITING SOGI PUBLIC EXPRESSION]

"Whoever makes a lewd signal or act in a public place or such that one may see it or hear it from public place, or appears like the opposite sex in any way, shall be punished for a period not exceeding one year and a fine not exceeding 1000 Dinar or one either of these punishments".

Kuwait 'noted' (rejected) a recommendation from Brazil to decriminalise same-sex relations between consenting adults at its **1st cycle UPR** in 2010. At its **2nd UPR** in January 2015, Uruguay and Iceland recommended Kuwait decriminalise same-sex sexual relations, and the Netherlands also iterated this and a call for non-discrimination in the country's law. This call for non-discrimination was echoed by Argentina and Chile. **Without alluding** to SOGI, at para. 29 of the State's formal acceptance of the report of the Working Group, the delegation justified that looking after public morals does not contravene Article 21 of the ICCPR (peaceful assembly).

In May 2014, it was **reported** that vice police raided a "sex party" and arrested 32 people, both men and women ("tomboys").

In August 2016 in its **Concluding Observations** to Kuwait the Human Rights Committee that oversees the ICCPR stated that: "13. The State party should take the measures necessary to decriminalize sexual relations between consenting adults of the same sex and repeal the offence of imitating members of the opposite sex, in order to bring its legislation into line with the Covenant. It should also take measures to put an end to the social stigmatization of homosexuality and the harassment, discrimination and violence perpetrated against persons based on their real or perceived sexual orientation or gender identity".