

Iran continues to routinely violate the rights of LGBT+ people, exposing them to state-sanctioned violence and discrimination.

Individuals of diverse sexual orientations, gender identities and gender expressions (LGBT+ persons) in Iran continue to be subjected to state-sanctioned violence and discrimination. The violations of their rights stem directly from the state's continued criminalization of same-sex consensual sexual activities (that can amount to capital crimes in Iran), strict regulations around transgender persons right to legal recognition, and widespread restrictions around exchange of information and expression related to sexual orientation, gender identity and related health and social issues.

These laws, the public discourse and their resulting stigmatization of LGBT+ people create challenges not only to their fundamental right to life and right to live free from violence and discrimination, but also translate into arbitrary arrests and detentions, violations of freedom of expression and association, obstacles to access to justice and access to healthcare.

Iran's violation of LGBT+ individuals' human rights is contrary to its obligations under the treaties to which it is a party, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Rights of the Child (CRC).

RECOMMENDATION

- Repeal or amend all legislation resulting in discrimination, prosecution or the punishment of people based on real or perceived sexual orientation, gender identity or expression, including Articles 233 through 240 of Iran's Islamic Penal Code.
- Take all necessary measures to eliminate and prohibit discrimination on the basis of sexual orientation, gender identity or gender expression, including with respect to access to adequate healthcare.
- Provide training for law enforcement and judiciary personnel, and other relevant state employees on issues related to fundamental human rights and their universal applicability, regardless of an individual's sexual orientation and gender identity.
- Protect the right to freedom of expression, both online and offline, and lift all forms of restrictions that prevent individuals from freely expressing their opinion or discussing issues related to gender, sexuality and bodily autonomy.

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- Repeal or amend all legislation resulting in discrimination, prosecution or the punishment of people based on real or perceived sexual orientation, gender identity or expression, including Articles 233 through 240 of Iran’s Islamic Penal Code.

Articles 233 through 240 of Iran’s Islamic Penal Code criminalizes same-sex consensual relations. Under these articles, the death penalty is imposed upon a male who is the “passive” party in homosexual acts or is a non-Muslim engaged in an act with a Muslim man. Men who do not fall under either of these categories and women engaged in same-sex sexual intercourse are punished with 100 lashes. The Islamic Penal Code also specifies that women punished three times for engaging in sexual activity may be sentenced to death on the fourth occasion.

State officials continue to use these discriminatory laws to arbitrarily arrest and detain LGBT+ individuals. One of the most recent examples of this behavior is found in reports of the arrest and assault of over 30 gay men based on their perceived sexual orientation in April 2017 in Isfahan Province.

State officials carrying out raids and arbitrarily arresting individuals based on their real or perceived sexual orientation act in direct contravention of Iran’s obligations under Article 9 and Article 17 of the ICCPR.

- Take all necessary measures to eliminate and prohibit discrimination on the basis of sexual orientation, gender identity or gender expression, including with respect to access to adequate healthcare.

LGBT+ citizens face barriers to accessing healthcare that are not encountered by heterosexual and/or cisgender citizens. The discreet nature of existing sexual health services in Iran makes it difficult for LGBT people to know where to go for STI testing, or which practitioners they can trust. Dr. Arash Alaei, one of Iran’s pioneering HIV/AIDS practitioners, estimated that up to 70% of cases of HIV were going undiagnosed and untreated as a result.

A 2016 report from OutRight highlighted specific issues relating to transgender individuals’ right to health, due to the legal recognition of their gender identity by the state. Their legal recognition is only fully granted once officially diagnosed with Gender Identity Disorder and successfully completing the process of legal and medical gender transition, thus excluding transgender individuals who do not wish to pursue medical transition services as defined by the state.

The experiences faced by LGBT individuals in attempts to secure their right to health reveal severe violations under international human rights law. Article 12 of the ICESCR provides for human right to health and explains that States must ensure that ethical standards are met by healthcare professionals.

- Provide training for law enforcement and judiciary personnel, and other relevant state employees on issues related to fundamental human rights and their universal applicability, regardless of an individual’s sexual orientation and gender identity.

LGBT+ Iranians continue to be arbitrarily arrested and detained based solely on their actual or perceived sexual orientation. Once individuals have been arrested based on these laws, they are then subjected to a criminal justice system that continues to violate their rights. OutRight’s 2016 Human Rights Report: Being Lesbian In Iran, lesbian Iranians explained that once detained, they are subject to interrogations under duress without access to their lawyers or being informed of their rights.

Additionally, they noted that the trial procedures are vastly inadequate with some individuals stating that their trials lasted only 30 minutes but resulted in harsh sentences.

The very arrests that lead to LGBT+ individuals being confronted with the criminal justice system in Iran are violations of international human rights law. The experiences once they enter the criminal justice system further these violations. Article 14 of the ICCPR provides for the right to a fair hearing which includes access to one’s attorney. Interrogations without the presence of one’s attorney, as well as expeditive trials lasting for 30 minutes violate Iran’s obligations under this article.

- Protect the right to freedom of expression, both online and offline, and lift all forms of restrictions that prevent individuals from freely expressing their opinion or discussing issues related to gender, sexuality and bodily autonomy.

The 2009 Computer Crimes Law radically expanded state powers for surveillance and online content censorship and has had a chilling effect upon freedom of expression online, with LGBT citizens particularly adversely affected, as the online space has been one of the only “safe space” they have been able to invest, in order to exchange information, experiences, and support. The Law allows for the imposition of the death penalty for ‘Crimes against Public Morality and Chastity’, under which the problematic Articles 14-15 are listed.

Iranian print media regulations are similarly restrictive in terms of content related to same-sex relations and other consensual sexual conduct considered indecent. Article 9 of the Iranian Press Law, states that a publisher can only receive a publication license if they are deemed to be “free of moral corruption” and Article 6(2) prohibits the publication of “obscene” or “indecent” material.