



This factsheet is from a three part series for LGBTQ people, looking at laws that affect you, your rights and what to do if arrested, and information on sexual health, in Egypt, Iran, and Lebanon.

ARTICLE 19

THE LAWS THAT AFFECT YOU

📍 IRAN



February 2018

WE ARE ALL HUMANS

We are all born human, and as such, should be entitled to the same rights. Essentially this means wealth, age, gender, ethnic background or nationality, religious or political beliefs, and sexual orientation cannot be used against us to limit our legal rights. Any violation of these rights is against international treaties that most countries, including **Iran**, have signed.

EQUAL RIGHTS FOR ALL - INTERNATIONAL LAW

Member states of the United Nations are party to the [Charter of United Nations](#), which guarantees the “Equal Rights” of all people, and calls on all nations to promote “respect for human rights and for fundamental freedoms for all without distinction”. These fundamental rights and freedoms are reflected in greater detail in the [Universal Declaration of Human Rights](#) (UDHR), the cornerstone of most human rights treaties.

Iran was one of the original 48 countries that signed the UDHR on 10 December 1948.



Under the UDHR:

- **All human beings are born free and equal and are entitled without any discrimination to equal protection of the law (Articles 1 and 7).**
- **Everyone has the right to life, liberty and security of person (Article 3).**
- **No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Article 5).**
- **No one shall be subjected to arbitrary arrest, detention or exile (Article 9).**
- **Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him (Article 10).**

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Other international treaties specifically protect the human rights guaranteed in the UDHR. Iran has officially committed to implementing several of these treaties, including:

- [International Covenant on Economic, Social and Cultural Rights](#)
- [International Covenant on Civil and Political Rights](#)
- [International Convention on the Elimination of All Forms of Racial Discrimination](#)
- [Convention on the Rights of the Child](#)
- [Convention Against Torture](#)

WHAT ABOUT LGBTQ PEOPLE?



International law speaks about equal rights for all people. It does not exclude anyone because of who they are. The right to be free and equal with respect and dignity is not negotiable or subject to exceptions.

No government is allowed to use religious beliefs, cultural norms, or traditional values to justify discrimination or abuse of certain groups of people. Remember this!

LGBTQ people are entitled to the same rights and respect as anyone else in the society. Popular beliefs or religious teachings are no excuse to mistreat those who look or act different.

HOW DOES THIS WORK IN IRAN?



For the most part there is a big gap between the application of international laws and actual practice on the ground which makes such standards feel more like theory than practice.

In Iran, authorities are openly against same sex-sex conduct and show little sympathy with people who challenge norms or laws related to intimacy and dress code. Society is constantly exposed to homophobic, biphobic, and transphobic messages by the state-run media, religious authorities, and government officials.

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SO WHAT SHOULD WE DO?

The truth is that **as long as the Iranian government is unwilling to recognise the equal rights of LGBTQ people, we have little legal protection against abuse and mistreatment.**

But...

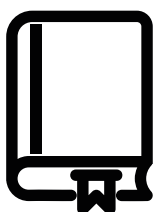
While we fight for social acceptance and legal recognition, there are basic safety measures that we can take in order to protect ourselves and our community members. One important step is having a clear outline of what the law actually stipulates about LGBTQ people.

These measures are no substitute for the need for equality and fair treatment, but they can help you to better protect your safety and avoid risky situations that may pose serious threats to you and your friends.

UNDERSTANDING THE LEGAL SYSTEM IN IRAN

Understanding the laws that apply to you is an act of empowerment for the vibrant and constantly expanding LGBTQ community, especially in Iran, where the law is constantly misconstrued.

The Iranian legal system has certain safeguards against human rights violations. The Iranian Constitution guarantees the protection of an individual's life, their reputation, their property, and their job against unlawful threats (**Article 22**). It bans the inquisition and persecution of individuals merely based on their opinion (**Article 23**). The law also requires that anyone detained be informed of his/her exact charges within 24 hours after their detention, and their case to be sent to the court of relevant jurisprudence within that time period (**Article 33**).



Iranian Constitution relevant articles:

Article 22
Article 23
Article 33
Article 35
Article 37
Article 38

As for the treatment of those charged with a crime within the court system, **Article 37** emphasises the presumption of innocence, unless proven guilty, while **Article 38** bans any form of torture as a means of extracting confessions from detainees. **Article 35** stipulates that all individuals have the right to legal representation in the court of law.

However, in reality the treatment of individuals within the Iranian court system is vastly different from the legal requirements. Nevertheless, it is always good to know your legal rights.

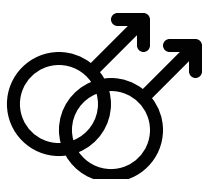
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WHAT IS LEGAL AND WHAT IS ILLEGAL?

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IRAN CONSIDERS HOMOSEXUAL ACTS A CAPITAL OFFENCE.

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Remember, if you confess (out of fear or under pressure) to the lustful nature of your act, lawyers can do little to protect you against punishments.

Also remember:

Under no circumstances offer any information about:

1. your sexual orientation and,
2. the intimate nature of your sexual relationship with other people

Refer to the factsheet on ***Your Rights and What to do if You're Arrested***

Iran is one of the few countries in the world that considers homosexual acts a capital offence and the legal system in Iran is notorious for the harsh treatment of detainees. Arrested suspects can be subjected to inhumane and degrading behaviour, denied access to lawyers, and forced to confess to their “guilt”.

The common perception is that a person discovered to be gay will be executed in Iran, as the punishment for homosexuality based on the Iranian Islamic Penal Code (the law that is used in the Iranian court system to deal with such cases) is the death penalty. This is not exactly correct.

The Islamic Penal Code considers “homosexual” behaviour a legal offence, but not a crime punishable by death. Lustful touch or passionate kissing is described by the Islamic Penal Code as same-sex sexual behaviour and is punishable by 31 to 74 lashes (Article 237 of the Penal Code).

Only the act of sodomy itself is a capital offence.

This would mean that:

- First and foremost, homosexuality is not a capital “crime”.
- Although the law is vague about the exact nature of “homosexual” behaviour, it is clear that the letter of the law refers to sensual acts that can be interpreted as foreplay or sexually charged. In other words, the fact that two men or two women kiss each other is not punishable under this law per se, unless it is proven that the act was “lustful”.
- In light of these conditions, a good legal defence can challenge the “lustful” or “sexual” nature of the contacts between them as well as the number of sexual acts they may be accused of. More information for transgender people living in Iran is available from [Outright International](#).

Remember that Article 241 of the Iranian Penal Code forbids any intrusive probing of individuals’ private lives, and the violation of their privacy, to seek information on people suspected of same-sex relations. This means that people have no right to spy on others.

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FINAL WORD

History shows us that the LGBTQ people and culture survive oppression. If you are being persecuted under the law remember that as a member of the LGBTQ community you are not alone and as a human being you have done nothing wrong. The LGBTQ community still persists and no amount of pressure or coercion can change that.



You can also refer the allied NGO and individuals such as [Radio Ranginkaman](#) and [Spectrum](#) for more information and support as an LGBTQ person in Iran.

We hope you find this factsheet helpful and educational. Please share it with your friends and loved ones.