

KNOW YOUR RIGHTS

"LGBT+ individuals guide to knowing their legal rights in Iraq and under the international human rights law."

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CONTENT

- Introduction
- Iraqi Law
 - Your rights under the constitution
 - The Iraqi Penal Code
- International Law
- Documenting the violations you face
- What do you pay attention to?
- What do you do with the information?
- What can we do with the information?



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INTRODUCTION

84% of LGBT+ people in Iraq/Kurdistan do not know exactly what the law say about them

Knowing your rights under the law might not protect you all the time in a country like Iraq where the law isn't always enforced, but it definitely increases your power and gives you a better understanding of what you could face, and what you as a citizen can use to protect yourself when arrested or when you face legal consequences.

In addition to that, knowing what rights and knowing what you need to focus on when facing human rights violations can have a major importance for these actions to have consequence, and in changing the reality for LGBT+ individuals.

The Iraqi Law

The fact that the Iraqi constitution doesn't criminalise homosexuality is both good and bad.

It's good because taking any legal action against the LGBT+ community using direct and clear laws is not possible under the law. But the lack of clear laws in Iraq/ KurdistanRegion makes discrimination against queer people easier as they are not protected by any law, in addition to the use of other laws to punish LGBT+ individuals indirectly.

The main problem with the Iraqi law is that it often overlaps with social norms and traditions that blur the line between what's legal and what's socially acceptable which makes it easier for LGBT+ targeted crimes to take place.

In this guide, we will discuss the laws that can be used to protect LGBT+ individuals, and other laws that can be used to violate their rights.

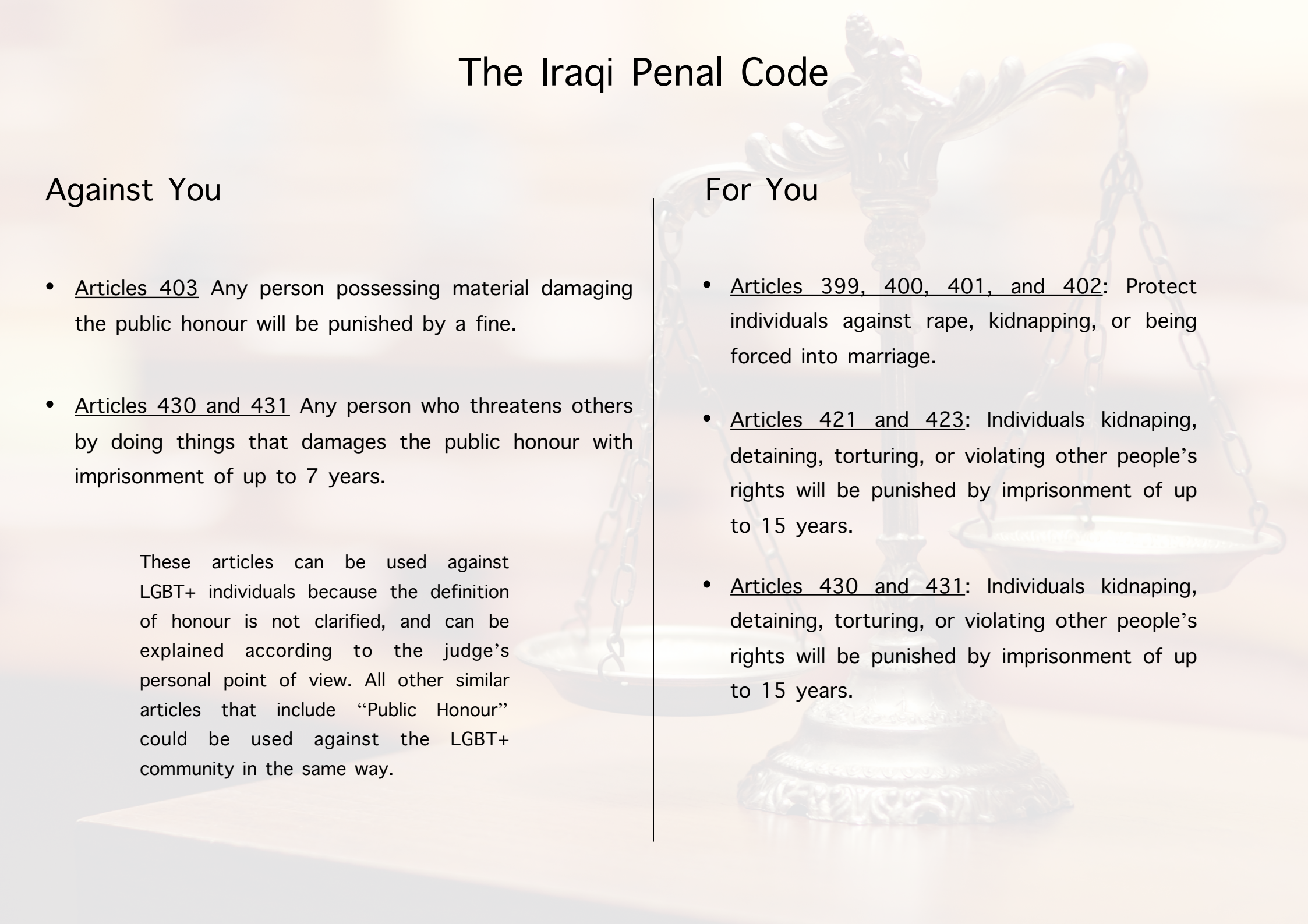


Your rights under the constitution

- Article 14: 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.
 - Article 16: Equal opportunities shall be guaranteed to all Iraqis, and the state shall ensure that the necessary measures to achieve this are taken.
 - Article 17, 23, and 44: Ensures the rights of all people's privacies, and their homes.
 - Article 22: Ensures the right of all Iraqis to a safe, and impartial employment opportunities.
 - Article 29 and 33: Ensures the right of all family members and children to live in a healthy and safe environment.
 - Article 30 and 31: Ensures the right of all Iraqis to an accessible health care.
 - Article 34: Ensures the right of all Iraqis to an accessible and free education.

 - Section 1 - Chapter Two Articles ensure the dignity of all Iraqis, and protect them from any form of torture. In addition to protecting their freedom of speech.
- Articles like Articles 41 and 42 protects Iraqis in their commitment to their personal status according to their religions, sects, beliefs, or choices, and this shall be regulated by law, and protects freedom of thought.

The Iraqi Penal Code



Against You

- Articles 403 Any person possessing material damaging the public honour will be punished by a fine.
- Articles 430 and 431 Any person who threatens others by doing things that damages the public honour with imprisonment of up to 7 years.

These articles can be used against LGBT+ individuals because the definition of honour is not clarified, and can be explained according to the judge's personal point of view. All other similar articles that include "Public Honour" could be used against the LGBT+ community in the same way.

For You

- Articles 399, 400, 401, and 402: Protect individuals against rape, kidnapping, or being forced into marriage.
- Articles 421 and 423: Individuals kidnaping, detaining, torturing, or violating other people's rights will be punished by imprisonment of up to 15 years.
- Articles 430 and 431: Individuals kidnaping, detaining, torturing, or violating other people's rights will be punished by imprisonment of up to 15 years.

International Laws

Under the international human rights law, the rights of all humans is protected regardless of their color, ethnic background, sexual orientation and gender identity, and others.

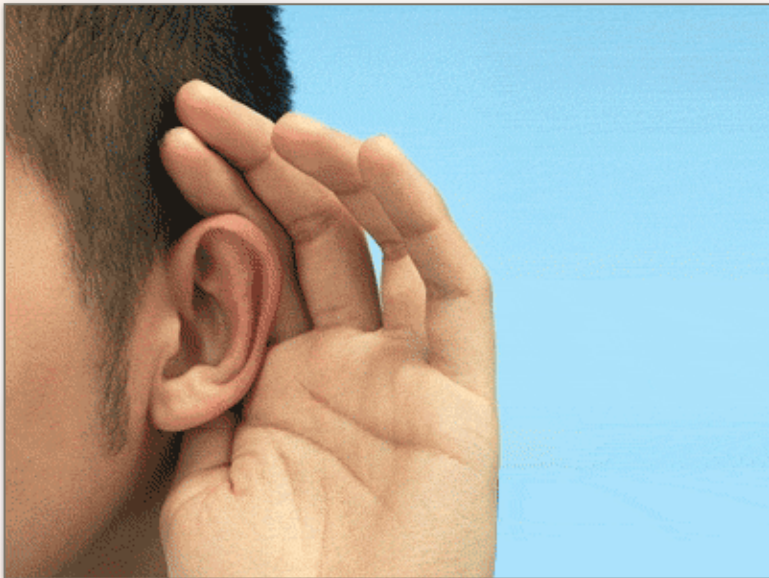
Iraq has signed on a lot of International conventions that should protect the rights of LGBT+ people directly or indirectly, and the government of Iraq is obliged under those laws to respect and implement the rights of the LGBT+ community.

What are the treaties that can protect you?

- Convention on the Prevention and Punishment of the Crime of Genocide
- International Covenant on Economic Social and Cultural Rights
- International Covenant on Civil and Political Rights
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- International Convention on the Elimination of All Forms of Discrimination Against Women

In addition to these convention, as a member of the United Nations, Iraq is obliged to work with the UN's appointed expert on sexual orientation and gender identities issues whom has been officially appointed on December 2016.

What do you do if you face a violation?



- Know who's threatening you: is it family members? Friends? Government members? Armed groups? Others? Get their name, address, description of their appearance.
- Know why you're a target: Is it directly because of your sexual orientation/gender identity? Is it a family problem? Other reasons?
- What are they asking for? Leaving your home? Performing certain favours? Other reasons?
- What kind of violations are you facing? Physical abuse? Verbal abuse? Threat?
- When did it happen? What date? What time? How long did it last?
- Where did it happen? Did it happen where you were already? Did they take you somewhere else? How far was it? Did you know the location?

What can be considered as a violation?

Violations of your rights can take all kinds of forms. It can be physical, verbal, economical or others practiced by family members, friends, the government, or even complete strangers who could abuse you in one of the previously mentioned ways, or even be violent against you. Whether it's simply someone verbally abusing you because of your sexual orientation/gender identity, or someone violently torturing and threatening you, it's equally important to document everything.

Why is it important to document everything?

Simply put, the only way to hold people accountable for their actions is through providing proof, and documenting their actions can be considered proof. The process of holding them accountable for their actions might be very slow after providing the evidence and document. With these stories and information, the Iraqi government can be held accountable for violating human rights standards, or not taking the necessary actions to stop violations against LGBT+ individuals. But it will be next to impossible without these kinds of stories (Your stories), and they will continue violating our rights.

What do you do with the information?

- Immediately after you are released, write down all the details as you remember them. The information at that time might be hard to process, but they are also fresh in your mind, and will be the best time to document it.
- Tell it from your own point of view, and write it in the language that suits you best. If you can't write, record the story on your phone or laptop.
- Send the information to a trusted individual/organization that you know can help you, and save the information in a secure place (Check how on our security manual available on our website).
- You can send your information to us, and we will discuss with you how we use it.

What can we do with the information?

- We will talk to you about the information you send to double check everything, and get all the missing information.
- We will document your story in addition to the stories of other individuals who face violations, and prepare them in a report.
- We will take the report to governments, the UN, and other international platforms to show them all the violations the LGBT+ community in Iraq/KurdistanRegion is facing.
- We put pressure on these groups to put pressure on the governments in Iraq/KurdistanRegion to change their practices or increase their protective measures of LGBT+ individuals.

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IraQueer is the first and only human rights organisation for and by the LGBT+ community in Iraq/KurdistanRegion aiming at empowering the local queer community through knowledge production and international advocacy. We envision an Iraq where all LGBT+ individuals are recognised and protected like all other citizens.

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