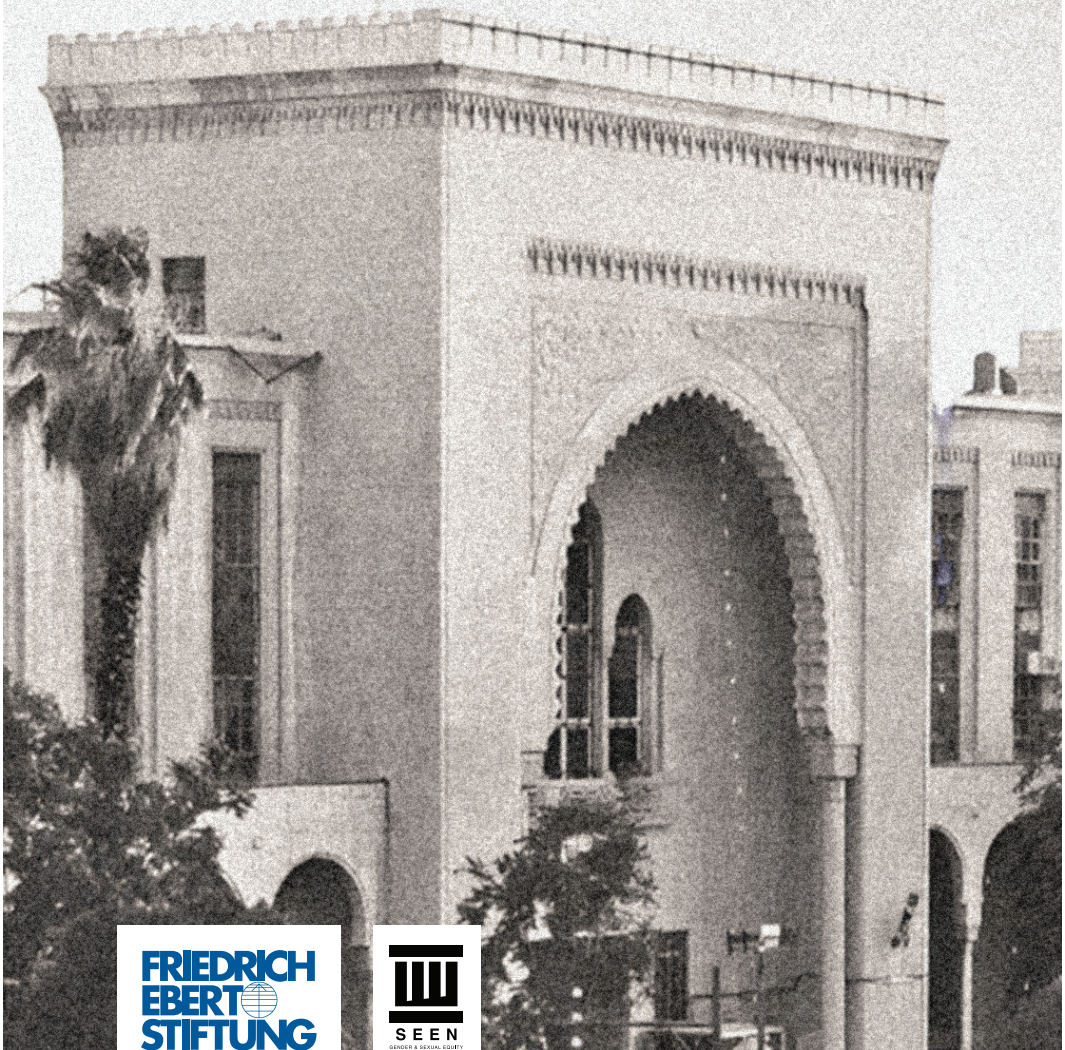


# LEGAL GUIDE FOR LGBTQI + SYRIANS, LAWYERS, AND ACTIVISTS

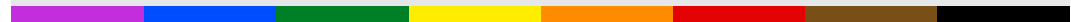


**FRIEDRICH  
EBERT**   
**STIFTUNG**

  
**SEEN**  
SHOULD & SHOULD NOT

## INTRODUCTION

This guide was prepared to familiarize readers with the main aspects of Syria's legal system that affect the LGBTQI+ community. By assisting activists, lawyers, and LGBTQI+ Syrians to understand these laws and principles, it aims to equip them to better navigate the legal complexities that define this system so that they can more effectively advocate for a more inclusive future.





# LAWS AND LEGAL ARTICLES USED TO INCRIMINATE THE LGBTQI+ COMMUNITY FROM THE SYRIAN PENAL CODE

## Article 520

Any sexual act that goes against the course of nature is punishable by imprisonment for up to three years.

## Article 518

Whoever violates public morals using one of the methods mentioned in paragraphs 2 and 3 of Article 208 shall be imprisoned for a duration of three months to three years and fined thirty to three hundred pounds.

## Article 517

Whoever violates public decency using one of the methods mentioned in the first paragraph of Article 208 shall be imprisoned for a duration of three months to three years.

## Article 512

Anyone who habitually, for the purpose of profit, facilitates the seduction of the public into commitment of debauchery with others, or uses one of the means referred to in paragraphs 2 and 3 of Article 208 to attract people to debauchery, is punishable by imprisonment for a duration of three months to three years and a fine of thirty to three hundred pounds.

## Article 507

Any man who, disguised in women's clothing, enters a place reserved for women or a place restricted to women at the time of the act, shall be punished with imprisonment for no more than a year and a half.

## Article 509

"Anyone who habitually incites one or more individuals, male or female, under the age of twenty-one, to debauchery or corruption

or facilitates or assists them in committing such acts is punishable by imprisonment for a duration of three months to three years and a fine of seventy-five to six hundred pounds. The same punishment applies to those engaged in clandestine prostitution or facilitating it." (The second part of this article has been invoked to criminalize members of the LGBTQ+ community, especially during house raids.)

## Article 519

Anyone who manufactures, exports, supplies, or acquires writings, drawings, manual or solar images, films, signs, or other objects that violate modesty with the intent of trading, distributing, advertising, or informing others about a way to obtain them shall be punished similarly."

## Article 208

This article defines acts that violate public morality as the following:

1. Actions and movements that occur in a public place or one open to the public, or are exposed to the view of the public, or are witnessed due to the perpetrator's mistake by someone unrelated to the act.
2. Speech and shouting, whether uttered loudly or transmitted through mechanical means, so that in both cases it is heard by someone unrelated to the act.
3. "Handwritten texts, drawings, manual and solar images, films, badges, and various photographs, if displayed in a public place or an area accessible to the public, or exposed to the view of the public, or sold, or offered for sale, or distributed to one person or more."

# ARREST OPERATIONS AND PROCEDURES

Individuals from the LGBTQ+ community are most frequently arrested under Article 520, which pertains to the violation of public morals and ethics.

## Arrests may occur in the following situations:

- When there is a complaint or report against individuals.
- When their names are mentioned in the testimonies of other individuals in police reports.
- During raids conducted by patrols targeting individuals from the LGBTQ+ community in public places or locations known for their gatherings.

## ARREST PROCEDURES

- **Initial Reporting:** Police must officially report and question the detainee within the first 24 hours at the station.
- **Extending Detention:**
  1. To extend, police must seek approval from public prosecution.
  2. Extension duration must not exceed 24 hours.
- **Your Rights:**
  1. While detainees are sometimes pressured to sign their arrest report, it is your right to refuse to sign. You should not sign the report if you have not read it.
  2. If you opt not to sign, this decision is logged and the report is forwarded to the public prosecution.

## VITAL INFORMATION WHEN CONSULTING WITH A LAWYER:

1. Detainee's full name
2. Arrest location, time, and responsible police department.

3. Report number and case stage, if known. If the case has been referred to the public prosecution, the date of referral should be mentioned.

## INITIAL STEPS IN ARREST PROCEDURE:

**Paperwork Review:** Once arrest documents reach the public prosecution, the Chief Prosecutor assesses the investigation, identifies the offense, and determines its legal basis.



## LAWYER'S RIGHTS:

1. They can seek a meeting with the detainee at the courthouse.
2. Meeting requests are submitted to the Public Prosecutor.
3. If not already representing the detainee, a lawyer may ask for a power of attorney.
4. With a power of attorney, the lawyer may acquire a copy of the arrest report.

# SECURING LEGAL REPRESENTATION:

- Lawyers can be officially appointed by visiting the office where legal representation processes are undertaken. This is typically done at the courthouse, regardless of the stage that the case has reached.
- If the defendant is not under arrest but their name is indicated in the police bulletin, the Legal Representation Office can initiate a visit to the lawyer's office to ensure the individual receives legal counsel.

## INTERROGATION PROCESS:

### Defendant's Rights during Interrogation:

1. The judge must inform the defendant of their right to have a lawyer present.
2. The defendant can opt not to respond to questions without their lawyer present.

### Post-Interrogation Decisions: The judge might:

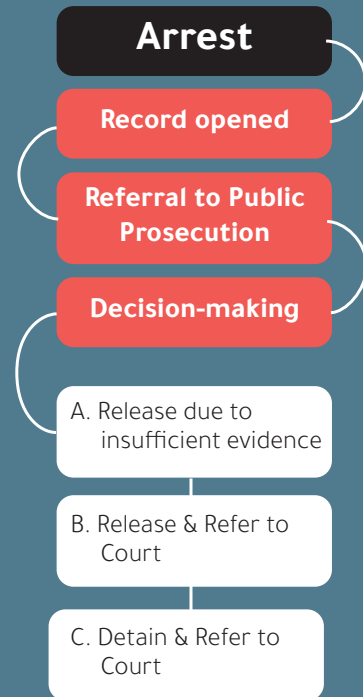
1. If there is inadequate evidence and the individual is NOT wanted for another crime, release the individual and send the case to the trial court.
2. If there is inadequate evidence but the individual is wanted for another crime, move forward with procedures related to the other crime.
3. If evidence is sufficient to press charges, retain custody and move the case to the trial court.

### Trial Court Proceedings:

1. Upon the court receiving the case files, a release plea can be made, either with or without bail.
2. If release is declined, there's a 24-hour appeal window at the Court of Appeal. No appeal is permissible at the Court of Cassation.

## THE PUBLIC PROSECUTION:

The Public Prosecution is responsible for safeguarding the rights and interests of the public. Upon receiving arrest papers, its primary duty is to review the arrest report and determine the criminal characterization. After the police department finalizes the arrest report, the detainee is directed to the Public Prosecutor's office. Here, the papers are analyzed and the criminal act is categorized by its existence, type, relevant legal clause, and the appropriate court to handle the case.



# UNDERSTANDING THE TRIAL COURT

## 1. COURT OF FIRST INSTANCE:

**Jurisdiction:** This court handles misdemeanor offenses, including those related to articles criminalizing certain LGBTQI+ activities.

**Process:** It acts as the trial court, studying the case, recording defendant's testimonies, and receiving lawyers' case-related documents. Lawyers can also appeal for their client's exoneration.

1. If not released, the defendant is incarcerated and presented at every trial session until a judgment is reached.
2. Lawyers can visit incarcerated clients and even transfer money to them.

**Appeals:** If a judgment is made against a defendant, the lawyer has 15 days to contest this decision. If a verdict is reached in the defendant's absence, they have 5 days to raise an objection, resulting in a re-trial at the same court.

## 2. PENAL COURT OF APPEAL:

**Overview:** It functions as a trial court, revisiting case documents and determining whether to grant the detainee's release request.

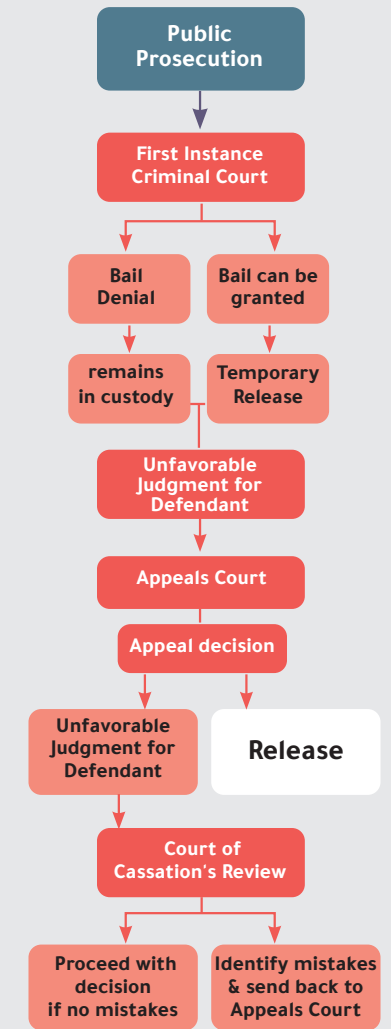
**Process:** The appellate judge examines the case documents and listens to testimony from the detainee. Lawyers can also furnish supplementary notes and documents. The outcome could either uphold or modify the preceding verdict, but the court cannot aggravate the sentence.

**Appeals:** After an appeal judgment, if it goes against the defendant's interests, they can contest the decision within 30 days of the verdict notification.

## 3. COURT OF CASSATION:

**Purpose:** This court's primary role is to review case documents, ensuring procedural integrity and the correct application and interpretation of the law.

- If a procedural mistake is identified, the court redirects the case to the Penal Court of Appeal for re-evaluation. If the court sustains its verdict, the Court of Cassation assumes the role of a trial court, reevaluating and delivering a judgment.



## EXPUNGEMENT

Following a final judgment resulting in imprisonment, the conviction is recorded in one's judicial record. This has various repercussions for future endeavors because the criminal record is required for many official procedures, such as issuing a passport, issuing a university certificate, renting a house, etc. The accused will not be able to conduct many official transactions due to the inability to obtain a clean criminal record. When it is issued, the record will state, "The person was previously convicted of homosexuality." However, starting three years after release, the convicted person can request expungement from the responsible authority. If granted, the offense is removed from their record.



# KEY RULINGS AND INTERPRETATIONS

## Intent of Law 520

"The intent of Law 520 regarding unnatural sexual intercourse is sodomy, and it applies to males as well as to females."

Resolution 878/1955 - Basis 865 - Courts of Cassation

## Decency & Indecency

"Indecency or an act contrary to decency is any act committed by a person against another, whether male or female, in a manner that brings shame upon them and harms their chastity and dignity, whether to satisfy lust or out of revenge, curiosity, or moral corruption. Undoubtedly, sodomy falls under this category. If consensual, it is termed as unnatural intercourse, and the provisions of Article 520 of the Penal Code apply. If done through physical or moral coercion, it constitutes a felony under Article 493 and subsequent articles of this law."

Resolution 916/1961 - Court of Cassation - Criminal Chambers - Syria

## Article 517

Sexual Intercourse Contrary to Nature:

"What the legislator intended by 'sexual intercourse contrary to nature' is sodomy, which can occur between a male and female or between two females, known as lesbianism. The text of Article 520 of the Penal Code applies to both genders." Syrian Cassation, Misdemeanor Case 1450, Decision 421, dated 10/3/1963

## Scope of Immoral Acts:

"The crime of indecent acts is not limited to unnatural intercourse or penetration. It encompasses any act committed against an individual that harms their chastity and shames them, such as touching the private parts with the reproductive organ and other acts viewed by society as indecent."

Resolution 956/1982 - Basis 1037 - Court of Cassation - Syria

## Public Indecency:

"The crime of public indecency includes any act that infringes upon, mocks, or shows indifference to the commonly accepted societal norms and adversely impacts people's sentiments."

Criminal cassation - Resolution 1965/100 - Syria

## Harmony in Interpretation:

When a legal text admits an interpretation that is significantly incongruous with the legislator's intent and is inconsistent with the other related legal provisions addressing a single subject, it is pertinent to adopt an interpretation harmonious with the aforementioned provisions. Specifically, Article 520 of the Penal Code, which uses the term 'intercourse' to describe the act of sodomy, is one such example.....

Misdemeanor Resolution No. 1955/878 - Q. 7250 - Syria

"Article 520 stipulates a penalty for intercourse against nature, and this crime can only occur between two human beings. If it is between a human and an animal, it is not unnatural sexual intercourse but affects public morals..."

Resolution No. 495/1968 - Misdemeanor Base No. 686 - Court of Cassation - Criminal Chambers - Syria

## Amnesty Decrees:

After the Arab Socialist Ba'ath Party took control in Syria, the first amnesty declaration was passed on April 17, 1963. Since that time, amnesty has been granted to people for various criminal acts, but all laws and legal provisions targeting the LGBTQ+ community have remained exempt amnesty.



# RECOMMENDATIONS FOR LGBTQI+ COMMUNITY MEMBERS IN SYRIA:

## Digital Safety

Always ensure digital safety. Avoid storing compromising materials on your mobile devices, like photos, chats, or any other potentially incriminating information.

## Avoid Revealing Images

Never share intimate photos that can identify you, especially ones that show your face or distinguishing features.

## Keep Friends Informed of your Whereabouts

Whenever you're meeting someone new, let a trusted friend know. Share details of where you're going and who you're meeting.

## Only Meet New People in Public Places

For initial meetings, opt for public places rather than private settings to ensure your personal safety.

## Legal Assistance

Always have the contact information of a trustworthy lawyer at hand. This can be invaluable if you are unexpectedly detained, as well as in other emergency situations.

## Only Confess at your Lawyer's Advice

If accused, never admit guilt, particularly in court. A confession in court holds more weight than one made outside of it. Inform the court if any confession was made under duress.

## Limited Information

If compelled to confess, only acknowledge the specific accusations. Don't give extra details that could further implicate you.

## Explicit Denial

If you deny any confession, be clear and unambiguous. Silence might be misconstrued as an indirect admission.

## Document Violation

If you encounter misconduct by law enforcement, such as torture or blackmail, discreetly take note of the identities of the officers involved.



## INTERNATIONAL PRINCIPLES AND TREATIES THAT ARE VIOLATED BY THE INCRIMINATION OF LGBTQI+ INDIVIDUALS:

1. The Universal Declaration of Human Rights, which Syria contributed to drafting in 1948.
2. The International Covenant on Civil and Political Rights, which Syria signed on 21st April 1969.
3. The International Covenant on Social, Economic and Cultural Rights, which Syria signed on 2st April 1969
4. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Syria signed in 2004.

## CONSTITUTIONAL PRINCIPLES THAT ARE VIOLATED BY THE INCRIMINATION OF LGBTQI+ INDIVIDUALS:

### Article 33 of the Syrian Constitution of 2012:

1. Freedom is a sacred right. The state guarantees citizens their personal freedom and preserves their dignity and security.
2. Citizenship is a basic principle that entails rights and duties that every citizen enjoys and exercises in accordance with the law.
3. Citizens are equal in rights and duties, without discrimination among them on the basis of gender, origin, language, religion or belief.

### Article 36 of the Syrian Constitution, which states:

1. Private life is inviolable and protected by law.
2. Homes are inviolable and may not be entered or searched except by order of the competent judicial authority and in the circumstances specified in the law.

### Article 42 of the Constitution which states:

1. Freedom of belief is protected in accordance with the law.
2. Every citizen has the right to express his/her opinion freely and publicly, verbally, in writing, or by all means of expression

## References

قدسي، بارعة (أصول المحاكمات الجزائية)، الجزء الثاني، الصفحة 128، منشورات جامعة دمشق كلية الحقوق، 2019.

قدسي، بارعة (أصول المحاكمات الجزائية)، الجزء الثاني، الصفحة 2، منشورات جامعة دمشق كلية الحقوق، 2019.

قدسي، بارعة (أصول المحاكمات الجزائية)، الجزء الثاني، الصفحة 137-139، منشورات جامعة دمشق كلية الحقوق، 2019.

قدسي، بارعة (أصول المحاكمات الجزائية)، الجزء الثاني، الصفحة 140، منشورات جامعة دمشق كلية الحقوق، 2019.

(قاعدة 2428 - مجموعة الاجتهادات الجزائية ج1 الى ج6 - ياسين دركزلي - رقم مرجعية حمورابي: 41554).

(قاعدة 1672 - الموسوعة القانونية الجزائرية - أنس كيلاني - رقم مرجعية حمورابي: 44682).

(قاعدة 1818 - الموسوعة القانونية الجزائرية - أنس كيلاني - رقم مرجعية حمورابي: 44829).

(قاعدة 1151 - قانون العقوبات ج1 و2 - استايبولي - رقم مرجعية حمورابي: 47407).

كيلاني، أنس (الموسوعة القانونية)، قانون العقوبات، قاعدة 1827. كيلاني، أنس (الموسوعة القانونية)، قانون العقوبات، قاعدة 1814.

قدسي، بارعة (أصول المحاكمات الجزائية)، الجزء الثاني، الصفحة 63-66، منشورات جامعة دمشق كلية الحقوق، 2019.

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