

# LGBTQIA+

## PEOPLE AND THE DEATH PENALTY

### LGBTQIA+ PEOPLE ARE EXPOSED TO DISCRIMINATION THROUGHOUT THE LEGAL PROCEEDINGS:



LGBTQIA+ people are more often **arrested, imprisoned**, and placed under surveillance than non-LGBTQIA+ people.



In the US, LGBTQIA+ youth make up

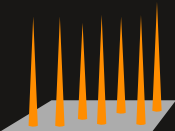
**20 %**

of all youth in the juvenile justice system, compared with 9.5% of the general population (Jones, A, 2021).

### AND ON DEATH ROW:



**12 countries** still have the death penalty for consensual same-sex sexual relations.



LGBTQIA+ people are particularly **vulnerable to abuse** and mistreatment (WCADP, 2021).

### TRANS PEOPLE AND THE DEATH PENALTY



**Worldwide data on transgender people sentenced to death is largely non-existent.** In many jurisdictions, self-identification is not possible.



In the United States **transgender women are overrepresented on death row:**

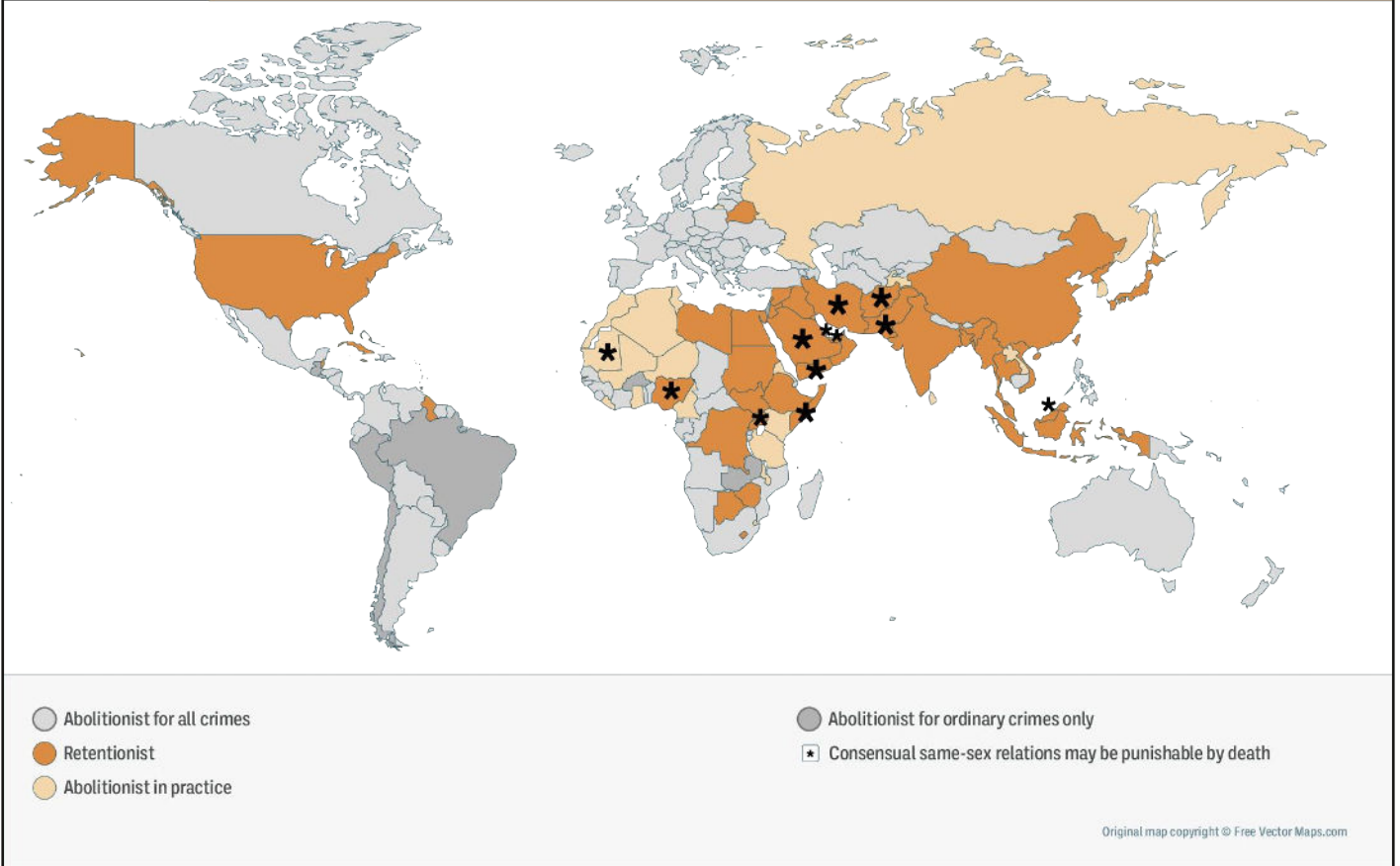
they account for

**8 %**

**of women sentenced to death.**

(CCDPW, 2020), while less than 1% of the general population is trans (Flores, A. R., Herman, J., Gates, G. J. and Brown, T. N., 2016)

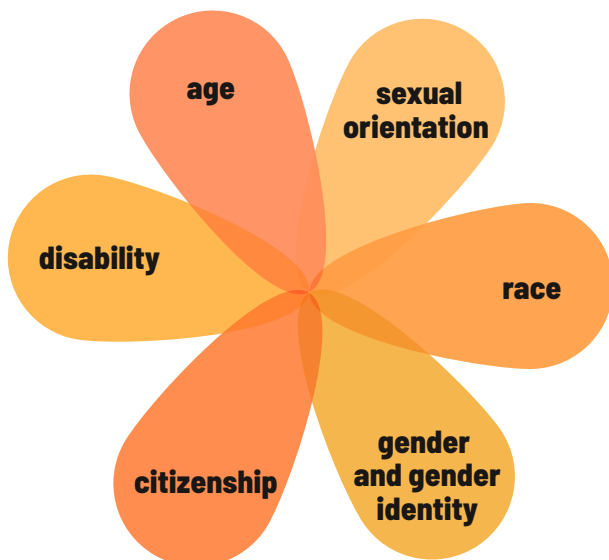




## INTERSECTIONAL DISCRIMINATION

**LGBTQIA+ people experience aggravated discrimination** due to other factors of their identity. For example, black transgender people experience higher rates of lifetime incarceration than other transgender people (Grant, J. M., Motter, L. A., & Tanis, J, 2011).

*Intersectionality and death penalty*



## INTERNATIONAL STANDARDS

### UNITED NATIONS HUMAN RIGHTS COMMITTEE

- **Recognizes that the criminalization of same-sex sexual relations violates the right to privacy and the right to equality** before the law. *(Communication No. 488, Toonen v. Australia, 1994)*
- **Recognizes that in no case may the death penalty be applied** to punish conduct whose very criminalization **violates the Covenant**, including homosexuality. *(General Comment No. 36 on article 6 of the International Covenant on Civil and Political Rights, concerning the right to life, 2019)*

### UNITED NATIONS HUMAN RIGHTS COUNCIL

- **Condemns the imposition of the death penalty as a punishment for consensual same-sex relations.** *(Resolution A/HRC/36/L.6 on the question of the death penalty, 2017)*

### UNITED NATIONS COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

- **Recognizes that the criminalization of same-sex relations violates a woman's right to non-discrimination .** *(Communication no. 134/2018 Flamer-Caldera v. Sri Lanka, 2022)*

# LGBTQIA+ PEOPLE, TORTURE AND THE DEATH PENALTY



## SEXUAL ABUSE

LGBTQIA+ people are particularly vulnerable to **physical and sexual** abuse in prisons, which can amount to torture and cruel, inhuman or degrading treatment (CIDT). Trans people may be placed in prisons that do not correspond to their gender, exposing them to rape and other acts of sexual violence. Trans and intersex people are also subjected to **invasive strip and search practices** to determine their sex.

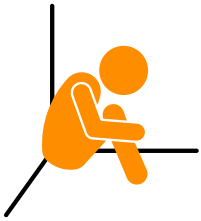
## ACCESS TO CARE

Failure to address the **specific needs of LGBTQIA+ people**, including sexual and reproductive health care, gender-affirming care, HIV care, mental health care and protection from gender-based violence, can turn their detention into torture.



## DETENTION CONDITIONS

Trans people are often **discriminatorily placed in solitary confinement** supposedly to protect them from violence. United Nations experts have condemned long-term isolation as torture (Méndez, J., 2011).



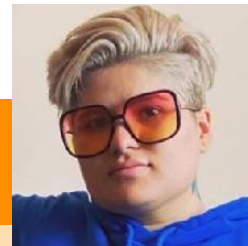
## Death penalty for consensual same-sex sexual relations



Same-sex sexual relations are punishable by death in 12 countries, the majority of which prohibit such acts only between men, and six of which actually implement the death penalty (ECPM, 2022).



## CASE OF SAREH SEDIGHI-HAMADANI AND ELHAM CHUBDAR



### October 2021

Iranian authorities arrest LGBTQIA+ rights activist Zahra Sedighi-Hamadani, known as Sareh. They were accused of "promoting homosexuality". A few days later, their friend Elham Chubdar was also accused of "encouraging corruption and prostitution".



### September 2022

Sareh and Elham are sentenced to death for "corruption on Earth", based on evidence obtained through forced confessions and other acts of torture.



### December 2022

Death sentence overturned following intense public and international mobilization.



### March 2023

They are released on bail but still have to go through the courts.

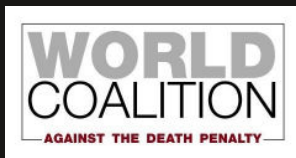
## KEY AWARENESS MESSAGES

- 1 Pending complete abolition, declare a de jure** moratorium on executions with a view to abolishing the death penalty and, in the meantime, commute all death sentences.
- 2 Decriminalize** consensual same sex sexual relations between adults of the same sex and gender diversity and repeal all other discriminatory laws against LGBTQIA+ people.
- 3 Commute the sentences** of all persons convicted of these crimes, release any individual detained under these laws, and instruct prosecutors and police to cease prosecutions and arrests on these charges.
- 4 Ensure that the specific needs** of LGBTQIA+ prisoners are met and that they are protected from all forms of abuse, harassment, and violence.
- 5 Institute prison and judicial policies** to recognize and affirm the gender identity of trans prisoners and prevent and investigate discriminatory treatment, torture, and CIDT.

## RESSOURCES



- *State-sanctioned murder of sexual minorities (Monash University)*
- *Love is not a crime (Ensemble Contre la Peine de Mort)*
- *Guide to transgender people facing the death penalty (World Coalition Against the Death Penalty)*
- *State killing of same-sex attracted people: A pluralist legal account (University of Cambridge)*
- *Briefing note: Abolish the death penalty and end its arbitrary use to punish LGBTIQ people (International Lesbian, Gay, Bisexual, Trans and Intersex Association Asia)*
- *Defending Women and Transgender People Facing Extreme Penalties: A Practical Guide (Cornell Center on the Death Penalty Worldwide)*



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