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[6Rang letter to Dutch government regarding its asylum policy for Iranian LGBTQI](#)

February 11, 2020 | [0 Comments](#)

Current situation of LGBTQI rights in Iran: from systematic persecution to the imposition of the death penalty

Ministerie van Buitenlandse Zaken
Ministerie van Justitie & Veiligheid
Tweede Kamer der Staten-Generaal

February 2020

Dear Minister and Deputy-Minister,

We write to you in response to the Deputy-Minister's letter (19 637, nr. 2508), dated 1 July 2019 and addressed to the Dutch House of Representatives, and to the Dutch government's new official report on the situation of Iranian LGBT persons, dated March 2019, as both of these have decisive implications for assessing asylum claims by the Iranian LGBT in the Netherlands.

It has recently come to our attention that the report made many references to our research, published in three reports between 2017 and 2018, entitled "Toward Depathologizing Trans: the Right to Identity Without Surgical Treatments and Physical Examinations"; "It's a Great Honor to Violate Homosexuals' Rights". Official Hate Speech Against LGBT People in Iran"; and, "Reparative Therapies on Gays and Lesbians Through cruel, Inhumane and Humiliating Treatments has Increased in Iran." While we would very much appreciate those citations, we have noticed that the report selectively chose some data while putting aside others in a way that implies the Iranian LGBT do not suffer from systemic and systematic discrimination and violation in all levels, or gives an interpretation that is neither meant by us nor reflects the reality of the lives of Iranian LGBT individuals and their community.

The submission attached chiefly concerns the protection level offered to the Iranian LGBT asylum seekers in the Netherlands and the current situation of LGBT rights and protections in Iran. We urge you to continue to offer the highest level of protection to this group. We find the lowering of this level of protection an inadmissible and unsuitable change of policy due to the following reasons. According to the most recent data (including data obtained during or after your report of March 2019) LGBT people continue to be systematically persecuted, the general situation of LGBT people has not improved, and trans persons, specifically, also face persecution. In the remainder, each of these issues are addressed separately.

We would hope that the Dutch authorities take the information attached into consideration while dealing with the Iranian LGBT asylum seekers.

The continuation of systematic persecution of LGBTQI

Contrary to what the mentioned letter and report state, the systematic persecution of LGBT people in Iran has not only not declined but the situation has in fact further deteriorated. The government report cites anonymous sources arguing that currently in Iran there is no active or systematic persecution of the LGBT community[1]. However, the Islamic Republic of Iran remains extremely hostile towards the LGBT community, any form of (consensual) same-sex conduct, non-binary gender expression as well as any form of civil activism and defence of human rights that is concerned with sexual orientation and gender identity[2].

Iranian officials continue to systematically persecute and harass these groups by violent reprisals, penalising them on the basis of specific provisions of the penal code or by bringing broad and vaguely defined national security charges and inciting hatred against them.[3] Moreover, such cases are heard and decided with complete disregard of internationally recognised due process and fair trial standards[4].

For example, in September 2018, Iran's security forces began a new wave of gender and LGBT rights activists' arrests that led to the detainment of several people. Among others, these forces arrested Ms Maryam Azad, an activist from Shiraz. Ms Azad, who had been banned from travelling outside of Iran, was arrested and interrogated when she attempted to board a flight from Tehran airport. This was because the Iranian government became suspicious of Ms Azad's activism and connection with the activists from outside of Iran.[5]

According to the reports received and verified by 6Rang, on 29 December 2018, two men, named Ehsan Rahmanian and Sajjad, were arrested by security forces in

the city of Jahrom after a private video of their symbolic wedding was published on social media by a third party. They have been charged with same-sex relations, breach of public morality and the capital offence of *efsad-e-fel-arz* (corruption on earth).

With numerous other examples, these cases don't stop there. However, there is no information published about many cases and they are buried due to a lack of transparency and respect for due process and because of the regime's success in oppressing these victims and stopping them from making their case public. Therefore, your report mentioning that "Veroordelingen die enkel gebaseerd zijn op homoseksuele handelingen met wederzijdse instemming zijn in de verslagperiode niet voorgekomen of bekend geworden" is not a correct or clear conclusion. A lack of respect for due process is the reason why these sentences are not published; the regime *conceals* its human rights violations. In addition to no transparency, those charged with the crime of *Lavat* (sodomy) do not have the right to legal representation or attorney. The regime of Iran always labels these cases as *Lavat-e Be-Onf* or sodomy by force or rape—alleging the one party forced the other. The regime does this by offering a less severe sentence for one of the parties in exchange for the confession that he was forced into the same-sex intercourse by the other party. In other words, they offer one of the parties a deal in exchange for a false confession that he did not consent to the sexual conduct. This makes the case appear non-consensual and stops human rights organisations from fighting against the criminalisation and punishment of consensual same-sex conduct using this case. However, in these cases, there is not proof or documentation, whatsoever, of any force being applied by one party to the other, or vice versa, in the sexual relation. These same-sex sexual conducts are almost always with the consent of both parties. For example, in January 2018, one man was executed in Kazerun city for the crime of "forced sodomy" or "raping" a younger man, but the regime provided no evidence of this person applying force to his sexual partner and he was not allowed any legal representation^[6], just like in every other case.

Furthermore, as documented by the 6Rang 2017 report^[7], incitement to hatred, hate speech, and violence against LGBT people is widespread in public domains. High ranking IRI officials including persons like the Head of Judiciary, Seyed Ebrahim Raisee^[8]; Speaker of Parliament, Ali Larijani^[9]; the Commander in Chief of Iran's Basij militia, Mohammad-Reza Naghdi^[10]; religious leaders; and, state media continue to use hateful, derogatory and dehumanising rhetoric against LGBT individuals, describing them as "animalistic", "subhuman", "sick" and "diseased".

Criminalisation of same-sex conduct and sexual orientation (in daily life)

The persecution is not exclusive to activists or limited to conduct involving physical contact. In addition to imposing corporal punishments and, indeed, the death penalty for consensual same-sex conduct that involves physical contact (articles 234, 236-7, and 239), the Islamic Penal Code (adopted in 2013) also imposes sever corporal punishments for homosexual expressions either in the society or via social media platforms under its general provisions about immorality and indecency according to articles 639 and 640 IPC. In certain cases, these expressions are punished according to article 286 IPC under a more serious charge of *efsad-e-fel-arz* (corruption on earth) punishable by the death penalty. Two recent examples of the imposition of this penalty were in the cases of Ehsan Rahmanian and Sajjad. Since then, in October 2019 the popular singer, Mohsen Lorestani, was also charged with this offence of *efsad-e-fel-arz* and could possibly be executed. This charge is brought merely on the basis of a private chat^[11]. Therefore, whether open or not and whether in physical contact or not, LGBT individuals are constantly criminalised and severely punished.

Likewise, in contrast to your report stating that the Iranian police will help any person in distress regardless of their sexual orientation, 6Rang's research and documentation (mentioned throughout this brief and in the reports cited in your report) show that arbitrary arrests, violence and mistreatment by police forces, raids on private parties against the LGBT community are widespread. IRI has no intention to end such practices of repression and persecution, or to hold perpetrators who carry out similar abuses with impunity accountable. On 13 April 2017, Basij militia forces raided a friendly gathering of young men in Bagh-e Bahadoran, Isfahan. An estimate of 30 men were arrested and transferred to Dastgerd Prison. A court in Isfahan charged them with "sodomy and consuming psychedelic drugs and alcohol."^[12] Similarly, on 17 September 2017, IRGC and Basij forces raided a birthday party in a private garden in Shiraz, arresting 23 individuals some of whom identified themselves as transsexuals. They were subjected to derogatory conduct and beaten by the agents and transferred to the detention centre of the Ministry of Intelligence where they were further abused and interrogated. This group were charged with "attending a haram (i.e. religiously prohibited) party."^[13] In further contradiction to the mentioned report stating "een homoseksueel die – om wat voor reden dan ook – in elkaar geslagen is en aangifte gaat doen, door de politie geholpen wordt, ongeacht of zijn geaardheid bij hen bekend is of wordt"^[14], we have very recent video footage of a trans person being beaten and harassed on the street with the police present at scene. Unsurprisingly to us, the police agent does nothing to help. When the public urge him to help, he responds by saying, "but it is a trans" and drives his vehicle away from the scene. Therefore, the conclusion in your report stating that "Er is in het dagelijks leven veel ruimte voor homoseksuelen"^[15] is not accurate and does not represent the reality of a great majority of homosexual persons in Iran. In reality, these persons are constantly prosecuted, criminalised, and subjected to all forms of ill-treatment including capital punishment by the state.

The systematic persecution of trans persons

Just like lesbian, gay and bisexual people, the situation for trans people in IRI is dangerous and they are being systematically persecuted. Taraneh Aram, Iran's most well-known trans activist attempted suicide live on social media because of her treatment by the IRI. To begin looking at some of the ways in which trans

people are treated, transgender expressions, including cross-dressing, attract a punishment of flogging (74 lashes) under the broad and vaguely worded article 638 of the IPC. Similarly, 6Rang's research shows that the criminalisation of LGB and transgender persons on the basis of sexual orientation and gender identity is increasingly accompanied by a range of legal and medical practices intended to *coerce* LGB and transgender people into reparative or conversion therapies, hormone treatments and sex reassignment and sterilisation surgeries.

In these cases, a free and informed consent of the individual is missing. The Iranian legal framework does not make being a trans person a crime. However, being transsexual is recognised as a medical condition known as Gender Identity Disorder (GID) that is curable through sex reassignment surgeries (SRS). As a result, LGBT individuals have two choices: first, to risk criminal prosecution, (state) harassment, and arbitrary arrest and detention; or second, to seek a diagnosis of GID with a view to undergo sex reassignment surgeries, sterilisation and hormone therapies. This means that LGB people cannot choose to be as they are and can only go through sex change in order express their identity and choose partners of the same sex. For trans persons this means that they cannot choose whether or not to undergo medical procedures. Additionally, medical professionals give the diagnosis of GID to LGBT individuals merely on the account of their same-sex desires and gender non-conformity and to individuals who do not conform to culturally approved models of femininity and masculinity. Thus, LGBT individuals are coerced to either receive reparative therapies aimed at "curing" them of homosexuality or undergo sterilisation and SRS aimed at turning them into "normally gendered" men or women.

This situation is further complicated by the complete disregard for ethical, medical, clinical and educational standards in the administration of these irreversible procedures. In a joint research with Justice for Iran, 6Rang documented[16] accounts of dozens of LGBT individuals who have been prescribed reparative treatments without being given adequate and accurate information about the risks, benefits, efficacy and scientific validity of such procedures or about issues relating to sexuality and gender diversity. 6Rang's research has revealed countless instances of administration of SRS that drastically fall short of international clinical standards resulting in bleeding or serious infections and leading to permanent and irreparable physical damage and long-lasting health complications. These are particularly grave given the IRI's failure to ensure that SRS surgeons and healthcare professionals dealing with such cases meet the appropriate standards of proficiency, expertise and ethical conduct[17]. For example, there have also been numerous incidents of abuse and harassment at the hands of health care professionals,[18] while the process of applying for legal sex change is itself marked by deep-seated homophobia and other discriminatory attitudes from the officials.[19]

Additionally, contrary to the statement in the report, IRI does not reimburse the cost of sex reassignment surgery. The welfare-based medical insurance only available to few can be used to covers only a third to half of the cost required for undergoing SRS when this is done at a public, government-run hospital. This is because the cost at these hospitals are cheaper than private hospitals. However, these hospitals, as detailed above, fall drastically short of all standards of clinical practice, proficiency, expertise and ethical conduct. Most cases result in bleeding, serious infections, and permanent and irreparable physical damage and long-lasting health complications. As such, most patients prefer to use private medical services that may be better in quality, but the amount of reimbursed provided by the welfare-based insurance is so little that it covers close to nothing when it comes to private care. Moreover, no additional medical procedure such as various plastic and other reparative surgeries needed by trans person after the main operation are not covered at all.

Moreover, these individuals often take such irreversible decisions without having been given the opportunity to have a real-life experience of one or two years in their desired gender, as prescribed by the Standards of Care of the World Professional Association for Transgender Health.[20] Iran refuses to respect the medical requirement of real life experience on the basis of religion and custom. We believe the only way to change the situation of many Iranian transgender individuals is to abolish the laws which criminalise same-sex relations and do not tolerate any gender expression which does not comply with heteronormative norms.

Immigration and asylum

Numerous Iranian LGBT and transgender persons who have go through SRS leave Iran and seek refuge in Turkey after they realise that not only there is no hope for any change in their situation, but on the contrary, their rights are constantly violated and they are at the risk of being arrested and subjected to abuse. The difficult circumstance and the uncertainty of future under which these individuals live, sometimes up to seven years, itself is proof of what the situation of the country they escape from is like. The Dutch government's duty towards these refugees also needs to be reformed and improved.

In the end we strongly urge the Dutch government to reconsider its policy regarding LGBT Iranian asylum seekers and afford them the highest level of protect under the Dutch law. This will prevent many tragic consequences for Iranian LGB as well as transgender individuals. At the same time, we ask the Dutch government to address the issue of human rights situation in Iran in all economic negotiations with Iran and to make the issue of violations of LGBT rights part of the resulting action plan.

COC, which is the largest LGBTI organisation in the Netherlands, has been [advocating for this change](#) for a while already.

External links:

['Situatie LHBT's in Iran verslechtert'](#)

[Nieuw onderzoek naar situatie LHBTI's Iran](#)

- [1] Algemeen Ambtsbericht Iran, maart 2019, p. 54.
- [2] ILGA, "State Sponsored Homophobia", p. 208, 226, 439-443. Available at: https://ilga.org/downloads/ILGA_State_Sponsored_Homophobia_2019.pdf.
- [3] Iranwire, "It's a Great Honor to Violate Homosexuals' Rights". Available at: <https://iranwire.com/en/features/5104>
- [4] 6Rang, Iranian Lesbian and Transgender Network, Submission to the UN Universal Periodic Review 34th Session of the UPR Working Group, Islamic Republic of Iran, 2019
- [5] Radiozamaneh, "مریم آزاد، فعال حقوق زنان بازداشت شد" Available at: <https://www.radiozamaneh.com/413515>.
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- [7] 6Rang, "It's a great honor to violate homosexuals' rights: Official hate speech against LGBT people in Iran", 18 December 2017, available at: <http://6rang.org/english/2331>.
- [8] 5 IRNA, "The First Deputy of the Judiciary: Free-spirited individuals showed their free spirit in their fight against Global Arrogance", 18 August 2014.
- [9] Ya-Isarat, "Larijani's eight solutions for a resistant economy", 22 October 2012, available at: <http://www.yalasarat.com/vdcgtq9t.ak9qu4prra.html>.
- [10] Ya-lesarat, "The European Union should not dare to open an office in Iran", 4 April 2014, available at: <http://www.yalasarat.com/vdcaiina.49nuo15kk4.html>
- [11] Out News, Iran Could Execute Popular Singer Accused of Being Gay, available at: <https://www.out.com/news/2019/10/08/iran-could-execute-popular-singer-accused-being-gay>
- [12] 6Rang, "Men Arrested at a Party in Isfahan Charged with 'Sodomy'", 20 April 2017, available at:

Men Arrested at a Party in Isfahan Charged with "Sodomy"

6Rang, 16 April 2017: An estimated 30 men arrested last Thursday in a friendly gathering in Bagh-e Bahadoran, Isfahan, have now been transferred to Dastgerd Prison. Sources have informed 6Rang that a court in Isfahan has charged them with "sodomy and consuming psychedelic drugs and alcohol." According to the reports 6Rang has received, on Thursday, ... Continue reading



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- [13] 6Rang, "End Persecution and Harassment of Shiraz Party Detainees", 23 Sep 2015, available at: <http://6rang.org/2726>.
- [14] Algemeen Ambtsbericht Iran, maart 2019, p. 54.
- [15] Algemeen Ambtsbericht Iran, maart 2019, p. 54.
- [16] Justice for Iran, "Diagnosing Identities, Wounding Bodies: Medical Abuses and Other Human Rights Violations Against Lesbian, Gay and Transgender People

in Iran” (2012), available at: <https://justice4iran.org/wp-content/uploads/2014/06/Pathologizing-Identities-Paralyzing-Bodies.pdf>

[17] A/HRC/28/12/Add.1, at 7.

[18] The interview is available online at the following link: <https://www.youtube.com/watch?v=8Wh0snjDCX0> (accessed 17 January 2020).

[19] The psychologists and psychiatrists making up the relevant commission in charge of the procedures at the Legal Medicine Organization of Iran (LMOI) often regard homosexuality as a morally reprehensible act worthy of criminal punishment and contrast it with transsexuality as ‘a gender identity disorder’ in need of hormonal and surgical corrections and therefore push the applications to trace the origins of their same-sex desire and feelings of confusion, depression and isolation to being in the ‘wrong body’ rather than perhaps being in a social environment that highly reprimands homosexuality and leaves no leeway in the traditional masculine and feminine role or behaviour. See: Justice for Iran, “Denying Identities, Maiming Bodies”, supra note 12, at 20-22 and 33-34.

[20] World Professional Association for Transgender Health, “Standards of Care for Gender Identity Disorders,” Vol. 7 (2012), available at: https://www.wpath.org/media/cms/Documents/SOC%20v7/Standards%20of%20Care_V7%20Full%20Book_English.pdf.

Additional Sources

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The Situation of LGBT Children in Iran – Submission to the Committee on the Rights of the Children, Available at: https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/IRN/INT_CRC_NGO_IRN_22618_E.pdf

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