

IRANIAN RAILROAD FOR QUEER REFUGEES

# Iranian Queer Watch Report



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## Stories

### Overview: The Invisible Iranian Queer of Law, Media, Society

#### The Protocols of an Interview with an Invisible Man, No. 39:

“Since the moment you realize you are gay or that you belong to an LGBT subgroup, you know that you will be discriminated against. One form of discrimination is that your identity as a human being is denied. They deny your right to be a human being, because you know that if you speak of your rights, terrible things might happen to you. Your family, your society, your government, your friends, and your workplace—all of them might do terrible things to you. Discrimination could be everywhere. Certainly, what I witnessed and experienced has always existed [in the society]. The heaviest discrimination is to live under constant suppression. You cannot express who you are, what you want, or what you believe in, and you cannot talk about your sexual orientation. This is the first form of discrimination [you face]. There are other forms of discrimination too; for instance, your parents might treat you differently compared to your siblings.”<sup>1</sup>

Mahmoud Ahmadinejad, the former Iranian president, once declared to the world: "In Iran, we don't have homosexuals. In Iran we don't have this phenomenon. I don't know who has told you we have it." <sup>2</sup> Ahmadinejad's remarks at Columbia University were met with much laughter and criticism at the time. Ironically, however, his claim is not far from the truth. This narrative is reflexive and representative of the state's policies and practice that in fact do not support a homosexual 'subject'. Conversely, despite how this subject is named, same-sex relationships have historically existed and continue to subsist/persist even in today's toxic environment – though silenced and under-recognized. This is precisely because every cultural apparatus, from families to society to the government and judiciary, deny their sexual identity and human rights. In other words, the Iranian queers' fight for



<sup>1</sup> Iran Human Rights Documentation Center, Witness Testimony: Witness Statement of Farshid, (New Haven: Iran Human Rights Documentation Center, 2012), online: <http://www.iranhrdc.org/english/publications/witness-testimony/1000000322-witness-statement-of-farshid.html#.UtbismRDvck>

<sup>2</sup> Saeed Kamali Dehghan, "Iran's persecution of gay community revealed," The Guardian, May 17, 2012. <http://www.theguardian.com/world/2012/may/17/iran-persecution-gay-community-revealed>

survival, liberty, and dignity begins first and foremost as a struggle for acknowledgement and existence. Iranian Queers are often surrounded by friends and family who encourage and enforce heteronormativity; subjected to a socio-symbolic contract that largely supports the homophobic Sharia laws, and are victims of judicial proceedings that falsely prosecute and convict them because of their sexual orientation. The true lives of queer Iranians are readily hidden, sheltered, or censored from public appearances. It is almost as if they do not exist.



Makwan Moloudzadeh's bitter trial and execution is testament to this harsh reality, one that Amnesty International deemed "a mockery of justice."<sup>3</sup> Makwan had been found guilty of multiple counts of anal rape, allegedly committed when he was only thirteen years old. The alleged victims in his case withdrew their testimony claiming to have lied under duress. Makwan also informed the court that his confession had been coerced, and pleaded not guilty.<sup>4</sup> Most importantly, Makwan was only a minor and under Article 49 of the Iranian

Penal Code, minors - "those who have not yet reached maturity [puberty] as defined by Islamic Law" - are exempt from criminal responsibility.<sup>5</sup>

Nevertheless, according to Article 120 of the Penal Code, in cases of anal sex between men, the judge "can make his judgment according to his knowledge which is obtained through conventional methods."<sup>6</sup> Accordingly, the judge relied on his discretionary powers under article 120 to rule that Makwan could be tried as an adult. Both the Seventh District Criminal Court of Kermanshah, and later the Supreme Court, found him guilty and ordered his execution. Makwan was executed in Kermanshah's Central Prison on December 5, 2007, "in the absence of medical evidence testifying to his state of maturity at the time of the crime," and in spite of widespread international uproar.<sup>7</sup> Makwan was invisible throughout the proceedings to those who turned on him, to the prosecutor, the executor,

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3 "Iran: Execution of child offender Makwan Moloudzadeh is a mockery of justice," Amnesty International, December 6, 2007. <http://www.amnesty.org/es/node/3001>

4 "Iran: Execution of child offender Makwan Moloudzadeh is a mockery of justice," Amnesty International, December 6, 2007. <http://www.amnesty.org/es/node/3001>

5 Under Article 1210 of the Civil Code, boys are deemed to reach puberty at the age of 15 lunar years (approximately 14 years and seven months).

6 "Islamic Punishment Code," IRQR Website. <http://english.irqr.net/islamic-punishment-code/>

7 "Iran: Execution of child offender Makwan Moloudzadeh is a mockery of justice," Amnesty International, December 6, 2007. <http://www.amnesty.org/es/node/3001>

and most significantly to the society and the status quo that stood idly by and witnessed it all.

Queer Iranians live in an atmosphere of uncertainty, peril and pressure. There are various factors that contribute to their inhumane living conditions. First and foremost, the religious and patriarchal elements that are characteristic of the present Iranian republic ascribe homosexuality as something to be feared and controlled. Moreover, the Penal Code of the Islamic Republic of Iran is based on strict Sharia laws that reserve some of the harshest penalties for those convicted of same-sex sexual conduct. Furthermore, sexual minorities in Iran may face arrest as well as physical and sexual assault during detention, summary prosecution, and corporal punishment due to their consensual same-sex acts. Finally, familial and societal pressures to be other than themselves deprive the Iranian queers of their dignity, leaving them stranded and invisible amidst their stark vulnerability.

Throughout this report, we will examine the lives of queer Iranians in the context of the law, media, and society. Meanwhile, in the precluding protocols, we will read the words of a queer individual whose true sexual identity is shrouded by this reality.

## Iranian Queers & Law

### i. Summary Justice: The Penal Code Against Homosexual Acts in Iran

The Protocols of an Interview with an Invisible Man, No. 9:

“Another issue was the legal aspect. The punishment I could have faced was execution...that was extremely terrifying for me. On the one hand there was the systematic aspect imposed by the government and on the other hand, families, kids my age, my classmates and society put pressure on me as well.”<sup>8</sup>

In Iran, the Penal Code proscribes same-sex sexual expression and imposes harsh sentences. A man found guilty of kissing another man “with lascivious intent” is punishable “by up to 60 lashes of the whip” (Article 124).<sup>9</sup> Likewise, Tafkhiz - or non-penetrative sex - and other sexual behaviour between two men are punishable by 100 lashes for each partner.<sup>10</sup> Four convictions of Tafkhiz may lead to the death penalty (as does sexual

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<sup>8</sup> Iran Human Rights Documentation Center, Witness Testimony: Witness Statement of Hamed, an Iranian homosexual, (New Haven: Iran Human Rights Documentation Center, 2013), online: <http://www.iranhrdc.org/english/publications/witness-testimony/100000263-witness-statement-of-hamed-an-iranian-homosexual.html#.UtbsQmRDvck>.

<sup>9</sup> “Islamic Punishment Code,” IRQR Website. <http://english.irqr.net/islamic-punishment-code/>

<sup>10</sup> Tafkhiz is the rubbing together of thighs or buttocks, or other forms of non-penetrative ‘foreplay’ between men.

“penetration”). The Penal Code further stipulates that “if two men, unrelated to one another, lie, without necessity, naked under the same cover, they will each be punished by up to 99 lashes of the whip” (Article 123).

It is important to note that there are many negative repercussions of the “morality laws” in Iran.<sup>11</sup> Moreover, the rigorous enforcement of the laws results in disproportionate harm to GLBT people in Iran in comparison with other laws applying to Iranians generally. Sexual minorities are singled out for such treatment and for the deprivation of their human rights.

This is a brief summary of the discriminatory penal code that is regularly and rigorously enforced. As recently as May of 2012, an Iranian court sentenced four men, named Saadat Arefi, Vahid Akbari, Javid Akbari and Houshmand Akbari to death by hanging for sodomy.<sup>12</sup> The London-based Iranian human rights lawyer, Mehri Jafari, pointed out:

There are two important issues in this case; the location of the alleged occurrence [all from the town of Choram in Kohgiluyeh and Boyer-Ahmad Province] and the interpretation of the Sharia’ law that a Hodud (strict Sharia punishment) is eminent. Kohgiluyeh and Boyer-Ahmad is one of the most undeveloped provinces in Iran and it is obvious that a lack of access to lawyers and fair trial can be considered a serious issue in this case. After this announcement it is very likely that the execution will be carried out soon, and the remote location makes it difficult to exert any influence on the process.<sup>13</sup>



On the observation about access to lawyers, it is worth recalling that judges are enabled to bear in mind their own view of facts regardless of any defense. They may also consider confessions extracted through coercion that would be excluded in court proceedings in most jurisdictions. Presence of informed legal counsel, a right in such jurisdictions is therefore not always supportive of human rights as a result.

The law is equally punishing for Iranian lesbians. According to articles 129 and 131, the punishment for *mosaheqeh* - sexual relations between two females - is 100 lashes for each of the first three offenses, and the death

<sup>11</sup> See also page 22 of “We are a Burned Generation).

<sup>12</sup> Dan Littauer, “Four Iranian men due to be hanged for sodomy,” Pink News website, May 12, 2012. <http://www.pinknews.co.uk/2012/05/12/four-iranian-men-due-to-be-hanged-for-sodomy/>

<sup>13</sup> Ibid.

penalty for the fourth. According to a report by Amnesty International, the Iranian Supreme Court issued a quick verdict of execution for Atefeh Rajabi Sahaaleh, the sixteen-year-old female who had confessed to her crime for the fourth conviction of *mosaheqeh*. Based on eyewitness accounts, “as Atefeh was taken to the crane for execution, she repeatedly asked Allah for forgiveness...When asked later why [the] case was rushed, [the judge] was reported to have said that, in his opinion, there was too much ‘immorality’ in Neka,” Atefeh’s hometown.<sup>14</sup> The case of Atefeh illustrates the complete discretion conferred to judges in Iranian courts to disregard rules of evidence and render decisions based on personal attitudes towards homosexuality.

This is not an isolated incident. Human rights campaigners report that over four thousand members of sexual minorities have been executed since the Ayatollahs seized power in 1979.<sup>15</sup> However, it is estimated the number and frequency of executions is much higher due to the fact that queer Iranians are often condemned under the charges of rape, fraud or treason, in order to ‘justify’ their criminality.<sup>16</sup> These camouflaged charges appear to allow the Iranian government to conceal the punishment of queer citizens, thereby continuing to curtail sexual minorities’ rights to life and security as well as obscuring from reports the circumstances surrounding their executions.

Furthermore, people charged with sexual crimes often endure summary trials that do not adhere to principles of fairness. In ‘morals’ cases, such as those aforementioned, the stringent standards of evidence are likely to be flouted by the judiciary in the name of protecting cultural and religious standards. For example, according to Article 117 of the Penal Code, “the witness of four just men who have observed the act proves the crime of sodomy.” Given that judges may draw from their own views of circumstances, this provision opens the way to slander and rumour from others.

## ii. Torture: The Invisible Penal Code Against the Homosexual Acts in Iran

LGBT Iranians have also reported accounts of physical and psychological abuse during detention - including the threat and use of torture - in order to extract confessions as evidence of homosexual conduct to be adduced in Iranian criminal trials. In 2002 Iran’s Guardian Council of the Constitution - a committee of twelve senior clerics who oversee all judicial, governmental and parliamentary legislation - vetoed a bill passed

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<sup>14</sup> “Iran: The Last Executioner of Children,” Amnesty International website.

<http://www.amnesty.org/en/library/asset/MDE13/059/2007/en/b95aae3b-d38d-11dd-a329-2f46302a8cc6/mde130592007en.html>

<sup>15</sup> “LGBT History,” National Gay-Straight Alliance Website. <http://gsaday.org/featured/lgbt-straight-allied-history/> Note that the figures are difficult to establish, as this Report notes elsewhere.

<sup>16</sup> “LGBT Republic of Iran: An Online Reality?”, page 36, Small Media, May 2012. <http://smallmedia.org.uk/lgbtrepublic.pdf>



by the Iranian parliament that would put limits on practicing torture and presenting confessions obtained from it in judicial proceedings. Yet, the proposed bill also stated that political dissidents and homosexuals were exempt from the proposed limits on torture. With that bill, the Iranian government clearly acknowledged that protection against torture should be provided, but that sexual minorities are undeserving of such fundamental legal protection.<sup>17</sup>

A Human Rights Watch report documents instances in which police and the militia have allegedly physically and sexually assaulted individuals before obtaining an arrest warrant. Several of those interviewed spoke of how they had been sexually assaulted or raped during detention.<sup>18</sup> (It might be added that gay Iranians are also abused by police and morality authorities in public, not just while in detention.) According to a July 2012 email from Ahmad, a queer Iranian who currently lives in Canada, to IRQR,

I was arrested in a gay birthday party in Iran by basij [the Militia]. I was taken to police station and I got raped there while I was in the detention center...The guy told me that I could enjoy my life from now on as a faggot. I find out that I became HIV positive three months later when I wanted to donate blood.

Farshid, another Gay Iranian interviewed by Iran Human Rights Documentation Centre [IHRDC], also vividly recalls his rape by two members of the Militia. He was initially arrested under the pretext that he was wearing for what to the Militia was “inappropriate” clothing. He was eventually taken to an unknown residential apartment where he was severely beaten and raped by two senior officers:

There was a full bathroom on that floor. The bathroom was large and its floor was covered by ceramic tiles...First the younger one raped me. Then the older one did the same. All that time I was very afraid that they would kill me after raping me out of the fear that they could get caught. Nobody had their number or any other information leading to them.<sup>19</sup>

### iii. State Ideology & Law: A Discriminating Hand with Many Heads

The Protocols of an Interview with an Invisible Man, No. 8:

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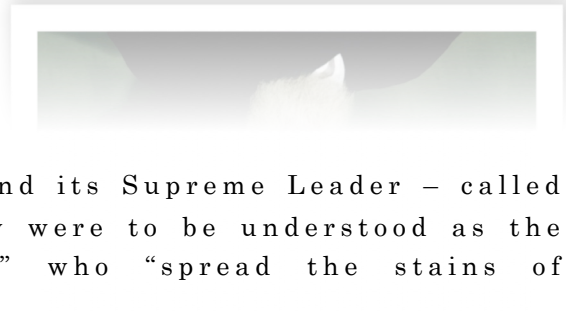
<sup>17</sup> UK Border Agency, Iran: Country of Origin Information (COI) Report, (Home Office, 2013), online: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/coi/iran/report-0913.pdf?view=Binary>

<sup>18</sup> “We Are a Buried Generation,” Human Rights Watch website, December 15, 2010. <http://www.hrw.org/reports/2010/12/15/we-are-buried-generation>

<sup>19</sup> “Witness Statement of Farshid,” Iran Human Rights Documentation Center, September 15, 2012. <http://www.iranhrdc.org/english/publications/witness-testimony/1000000322-witness-statement-of-farshid.html#.UiowGmR4YIU>

I think the biggest problem I had in all these years was that there was a systematic effort by the government, the authorities, schools and media to label people like myself as sinners. They believed we are bad and said things like AIDS were caused by homosexuals or that we are deviant and so on and so forth. I suffered a lot under this pressure at a time when I was trying to know myself. I was uncertain and did not have a lot of information. And this bombardment of propaganda against homosexuals in Iran really bothered me during my youth.<sup>20</sup>

The religious fundamentalism that characterizes the attitude of the Iranian judiciary toward homosexuality is longstanding. To contextualize the strict upholding of such judiciary practices one must first consider the ideology of the Islamic Republic as it is embodied in its religious and political leaders. Within months of the 1979 Iranian revolution, the birth date of the Islamic Republic, Ayatollah Ruhollah Khomeini – then the highest-ranking political and religious authority in the Islamic Republic of Iran and its Supreme Leader – called for homosexuals to be exterminated.<sup>21</sup> They were to be understood as the “parasites and corruptors of the nation” who “spread the stains of wickedness.”<sup>22</sup>



Even under the reformist government of President Mohammad Khatami, the Islamic judiciary remained one of the bulwarks of religious conservatism in Iran, a judicial and legal status that was strengthened under the hardline rule of President Mahmoud Ahmadinejad. In fact, the argument against any recognition of civil rights for sexual minorities is reiterated as an unassailable cultural, religious and ideological cornerstone of the state itself. As recently as January 2012, in a meeting with the head of the Human Rights Commission of the German Parliament, Dr. Mohammad Javad Larijani, the international advisor to the Iranian judiciary, referred to homosexuality as a “perversion and a form of sexual disease [that is] not acceptable” to Iranians.<sup>23</sup> Consequently, any discussion of the rights of homosexuals in Iran with Western officials has been superficial and

20 Iran Human Rights Documentation Center, Witness Testimony: Witness Statement of Hamed, an Iranian homosexual, (New Haven: Iran Human Rights Documentation Center, 2013), online: <http://www.iranhrdc.org/english/publications/witness-testimony/1000000263-witness-statement-of-hamed-an-iranian-homosexual.html#.UtbsQmRDvck>

21 Doug Ireland, “Gay Iranian Deportation on Hold,” Gay City News, April 2006. [http://gaycitynews.com/gen\\_516/gayiraniandeportations.html](http://gaycitynews.com/gen_516/gayiraniandeportations.html)

22 Maarten Schild, “Islam,” in Schmitt and Sofer, eds, *Sexuality and Eroticism among Males in Moslem Societies* (New York: The Haworth Press, 1991), 184.

23 Dan Littauer, “LGBT people are sick, says Iranian Human Rights Official,” Gay Middle East, September 1, 2012. <http://www.gaymiddleeast.com/news/news%20344.htm> Farsi version of news release from Iranian High Council for Human Rights official website: <http://www.humanrights-iran.ir/news-23698.aspx>

fleeing. Admittedly, nation states have always responded to the Universal Declaration of Human Rights in varying degrees. Yet, Larijani's staunch position to curtailing sexual minority rights for cultural reasons is deplorable and clearly contrary to the Declaration.



Endemic homophobia in Iran also stems from the teachings of Islam as provided in Sunnah and Sharia.<sup>24</sup> When serving as the head of the Supreme Council of the Judiciary, Ayatollah Musavi-Ardebili celebrated the “most severe punishments” as befitting the Islamic prohibition against homosexuality. While delivering a sermon at Tehran University in 1990, he remarked:

For homosexuals, men or women, Islam has proscribed the most severe punishments...Do you know how homosexuals are treated in Islam? After homosexuality has been proven on the basis of Sharia, the authorities should seize him [or her]...they should keep him standing, and should then split him in two with a sword, cut off his head at the neck or split the head. He will fall down. They get what they deserve.<sup>25</sup>

It is evident, therefore, that the authoritative and flawed practice of justice in the cases of Makwan and Atefeh above is connected to the prevailing attitudes defining the core of Islamic Republic religiosity; and to its opposition to what it continuously strives to mount as its irreconcilable exterior: homosexuality. The discrimination against sexual minorities is arguably one of the main tenets of the legal and ideological discourses of the Islamic Republic's regime. These discourses squeeze out minority expression and make the GLBT community virtually invisible, if no other reason than the absolute prohibition from the community's very identity. As one essayist has observed, the personal is political:

The logic behind the Iranian government's denial of the existence of homosexuals is simple: if something does not exist it is not eligible for basic human rights. The Iranian government denies LGBT Iranians a voice and does its utmost to prevent them from interacting with each other or speaking out in public.<sup>26</sup>

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<sup>24</sup> Sharia is the moral code and religious law of Isla. The Sunnah is the next important source, and is commonly defined as the traditions and customs of Muhammad.

<sup>25</sup> (BBC Monitoring, 21 May 1990).

<sup>26</sup> “LGBT Republic of Iran: An Online Reality?”, page 22, Small Media, May 2012. <http://smallmedia.org.uk/lgbtrepublic.pdf>

Implicit in this observation is that certain basic rights, such as freedoms of association, assembly and speech are conditional upon conforming to the religious and legal beliefs and codes of the Republic, or at the very least upon abstaining from expressing sexual identity and gender. Hence the invisibility referred to above.

## Iranian Queers & the Society

The Protocols of an Interview with an Invisible Man, No. 30:

The issue religious people have with us is that from their point of view the Shi'ite religion in Iran has a fixed foundation and if they show flexibility on issues like the hijab, or women or homosexuals it would be a big retreat from their principles. Strategically, it would be unacceptable to them. The only way to change religious views is that first there needs to be some social grounds for an ayatollah to issue a favorable fatwa and then society can support it. You can have discussions with an ayatollah and explain the situation. Then perhaps religious people can change their views. But if there is no social context to accept us, no amount of religious explanation can have any impact.<sup>27</sup>

Despite the official pronouncements that deny or discount the existence of homosexuals in the Islamic Republic, the existence of legal sanctions, Militia actions and relationships indicate that whatever the official pronouncements, thousands of Iranians clearly self-identify as what we would term “queers” (whatever labels they themselves dare use), while many others engage in consensual same-sex acts. There are, of course, no official statistics regarding the size of Iran’s queer population. They are visible in a number of Iran’s larger urban areas such as Tehran, Esfahan, and Shiraz. In the capital city, Tehran, for example, there are public and semi-public spaces known for being meeting places where Iranian queers may discretely meet or gather. Some of these spaces, such as cafes and restaurants, are associated with the middle class or well-to-do, while others, including several well-known parks, are frequented by queers who have often been rejected by their families and are living on the fringes of society or are even homeless – particularly gay youth and men, as well as transgender individuals, who must resort to prostitution in order to afford basic needs.<sup>28</sup>

However, there is a wider current to the homophobic tide in Iran that reflects more than the ideological and legalistic rhetoric of the Islamic

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<sup>27</sup> *ibid.*

<sup>28</sup> This description is based upon scores of conversations with LGBT refugees from Iran that have taken place over the past six or seven years with representatives of the IRQR, both in Turkey (usually the first country of refuge) and in Europe and North America. Names are withheld for reasons of the security of those persons and their families and friends in exile and in their native country.

Republic regime. This current of public opinion that acts to restrict, conceal and prohibit Iranian queers, flows through the main body of Iranian society and enables homophobic state policies, actions and ideologies. At times, homophobia takes the form of plain-clothed religious volunteers, but most often it surges in places the LGBT Iranians call ‘home,’ or spaces where they seek understanding and counsel, such as doctors’ offices or school classrooms.

### i. Enforcement of Laws: The Guerrilla War Against Gays and Lesbians

LGBT Iranians may feel compelled to conceal their sexual identity because the government has made extensive efforts to set up semi-official and vigilante organizations mandated to preserve ‘public morality.’ For example, the Social Protection Division created in late 2004 recruits unemployed ex-military draftees to uphold its aim to control “the social ills of every neighborhood and region,” as well as “deviant individuals.”<sup>29</sup> These divisions report serious moral offenses to the “disciplinary forces of the judiciary” for further action.

Further government regulations related to public morality and homosexuality came into effect in 2007. Iran’s security forces, including the police and paramilitary known as the Militia - have relied upon the aforementioned discriminatory laws to harass, arrest, and detain allegedly queer individuals. The incidents often occur in parks and cafes, but Human Rights Watch has documented cases in which security forces have raided homes and monitored Internet sites for the purpose of detaining people they suspected of gender and sexual nonconformity.<sup>30</sup>

Such policing and enforcement of morality laws against sexual minorities illustrates that powerful homophobic rhetoric from religious leaders. Such laws are strongly influenced (as noted) by religious morality and interpretation of Islam within the Republic. This hierarchy equally reflects the infiltration of the homophobic rhetoric into these grass-roots bodies of the Islamic Republic at large, since conservative youth constitute the core of The Militia and the moral policing forces.

It is important to note that the state offers no protection for the LGBT community in part because there is no meaningful accountability of policing and militia bodies for their actions. These include abuses as described above. Some tracking down of official activity of the judicial and legislative body of the Iranian regime can be done but it is very difficult. Gathering evidence and compiling reports concerning the activities of these

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29 “Sweden: Stop Deportations of LGBT Iranians,” Human Rights Watch website, October 9, 2006. <http://www.hrw.org/news/2006/10/08/sweden-stop-deportations-lgbt-iranians>

30 “We Are a Buried Generation,” Human Rights Watch website, December 15, 2010. <http://www.hrw.org/reports/2010/12/15/we-are-buried-generation>

tightly knit independent groups is nearly impossible. This is in spite of the public displays of their tyranny. There is therefore little opportunity for society at large to reflect on abuses by authorities or to exert opinions that could shift treatment of the LGBT community toward a more tolerant or protective framework.

Moreover, these policing and militia groups operate in even the most remote corners of Iran, making this search even more difficult. According to a report by the IGLA, for example, the members of The Militia raped the twenty-seven-year-old gay rights activist, Farrok N., in 2010 in the city of Karaj, a suburb that is an hour's drive away from Tehran.<sup>31</sup> According to the report, following their arrest, Farrok and his friends were made to stand blindfolded in a yard for 90 minutes and were questioned. However, "his problems really began when one of the men noticed that he had dyed hair and plucked eyebrows...[so] they bludgeoned him with batons, kicked him and accused him of besmirching the honor of men". After that, they took him to another room and told him to take off his jeans and underpants. He was then knocked down to the ground, "as one man knelt on his head and arms while the other raped him."

## ii. Society & Family: Home is where the Heart of the Prejudice is

The Protocols of an Interview with an Invisible Man, No. 34:

I had a very difficult time as a gay person in Iran. My family, in particular, gave me a very hard time. When my brother found out that I am gay, we got into a physical fight. He attacked me with a knife. My mother threw me out of the house.<sup>32</sup>

In Iran, to be LGBT is to find oneself vulnerable to abuse in and outside the home. Consequently, for a queer Iranian, self-censorship is a means of self-preservation. This is particularly important given the abuse and violence that can come from the hands of private actors such as family, friends and neighbors, in addition to the state actors such as the Militia and the official security forces.

Many queer Iranians recount how the bonds with their families are often strained – and even severed – after revealing their true sexual identities. Children who behave contrary to expected gender norms can often develop anxiety with respect to parents and other members of their family: behavior that does not conform to the accepted gender expectations – as to how a boy or girl is to act – can lead parents to strictly monitor

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31 "Gay Iranian HR Activist Raped by Basij for Posting Bills," ILGA website, Sep 7, 2010. <http://ilga.org/ilga/en/article/mvMdJ1x1Va>

32 Iran Human Rights Documentation Center, Witness Testimony: Witness Statement of Farshid, (New Haven: Iran Human Rights Documentation Center, 2012), online: <http://www.iranhrdc.org/english/publications/witness-testimony/100000322-witness-statement-of-farshid.html#.UtBismRDvck>

their children's lives, and lash out against them in frustration, shame or anger.

The overwhelming majority of LGBT Iranians interviewed by the Human Rights Watch during the course of its 2010 investigations spoke of abuse and rejection by their families: they had been beaten by their parents or siblings, particularly older brothers, either because their families came to know of their same-sex sexual relationships, or because they disclosed their sexual orientation or gender identity to their family. This abuse included harassment and threats, constant monitoring, as well as physical and sexual violence.<sup>33</sup>

Indeed, scrutiny for 'deviant' behavior is widespread and encouraged in Iran, with neighbors and family members actively engaging with the authorities to enforce the morality laws. In the face of this insecurity at home, queer Iranians also fear arrest, detention, and potential prosecution under the law should they seek help from the authorities for protection against the prejudice and harassment of their friends and family. The Islamic Republic's laws, therefore, prevent victims from reporting the abuses against them. Moreover, it renders them vulnerable not only to harassment and abuse but also to blackmail and extortion by private actors such as the members of their family, friends, peers, neighbors or employers who may seek an opportunity to exploit their secret selves.

What is more, the failure of the state to investigate, prosecute, and punish private actors including family members who commit violence against Iran's sexual minorities, also violates Iran's obligations under international law. These obligations include the responsibility to protect citizens "without distinction of any kind," and to ensure that those, whose rights are violated, "have an effective remedy."<sup>34</sup> The instruments are, of course the body of human rights conventions that have been part of international law for decades [and are cited elsewhere in this report]. All apply equally to Iran as they do other countries.

### iii. Family & Patriarchy: All against the Lesbians

While the Islamic Republic penal code's punishment for sexual conduct is less harsh for lesbians, their social and economic situation is significantly more restrictive when compared to gay men. As women, lesbians are already trapped in a cultural and structural paradigm of patriarchy that restricts Iranian women generally to domestic roles. These disadvantages are compounded by the discrimination that they suffer because of their sexual orientation. Survival for Iranian lesbians, financially and socially, is dependent on their ability to repress or hide

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<sup>33</sup> Same Reference as above at footnote 30 and below, fn. 34

<sup>34</sup> "We Are a Buried Generation," Human Rights Watch website, December 15, 2010. <http://www.hrw.org/reports/2010/12/15/we-are-buried-generation>

their sexual identity in various ways. This self-repression stems from a well-founded fear of discovery: if her family ever finds out about her sexual orientation, the Iranian lesbian is likely to become subject to abuse, beatings, and even murder. The so-called ‘honor killings’ by male kin are not uncommon, and the socially justifiable status of such crimes reflects the conservative value-norms of the Iranian society. Most often, lesbian Iranians find themselves abandoned by their families, a situation that can induce these women to enter into prostitution to survive and to the frequently dire effects that it can have for already marginalized women.

There are families, however, who arrange marriages for their lesbian daughters, believing that it will prevent the expression of their homosexual desires. In such a marriage, a woman lives an existence that on a daily basis denies her sexual nature.<sup>35</sup>

One Iranian lesbian who was subject to such ill treatment is Taraneh, who now lives in the Netherlands. She was twenty years old when she was first arrested and arraigned on account of her suspected lesbian identity. Taraneh was held for three months in prison and received 100 lashes as punishment. Her family later forced her into a marriage with a man, yet she continued to see her girlfriend in secret. Her neighbors eventually became suspicious of her affair and reported her to the police. While raiding her home, the police (it may be assumed) beat her severely and then took her to a detention center. Tortured in custody, she was forced to confess to homosexuality. Injured and bleeding, Taraneh spent several days in solitary confinement without access to sanitary or medical facilities.

Throughout this period, she was repeatedly threatened with imminent execution. Every night, she and other prisoners were taken to the prison’s courtyard and were forced to run. They were told by the guards that “people like them must be burnt to death.”<sup>36</sup>

During the prosecution, the Revolutionary Court of Isfahan offered to drop all charges against Taraneh on the condition that she named other lesbians. Upon rejecting this offer, she was beaten again and sent back to prison where she received another 180 lashes in front of other prisoners. Taraneh eventually spent two years in prison, enduring daily humiliation and abuse at the hands of the authorities.

#### iv. Society & Education: Misunderstanding of Bisexuality

Iranian bisexuals face a similar reality to other sexual minorities, though not without challenges unique to their sexual orientation. Given that the revelation of one’s sexual orientation may lead to arrest and even

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35 Shahrzad News <http://www.iranpost.nl/index.php?page=2&articleId=427>

36 “Lesbians in Iran: Stories of Persecution and Torture,” ILGA website, February 15, 2010. <http://ilga.org/ilga/en/article/mi6UKgn1c6>



execution in Iran, bisexuals often find themselves living carefully constructed lives, often using the camouflage of heterosexual marriage as a means to mask their true identities. Many bisexuals who flee Iran do so because they live in a same-sex relationship, and, as a result, there is a greater danger of arrest and persecution.

To add to their difficulties, unfortunately some refugee tribunals have assumed in their rulings that all bisexuals can easily or equally choose to live in a heterosexual relationship, with same-sex experiences or relationships kept discretely separate. A fundamental challenge for the bisexual individual, therefore, is that bisexuality is often understood as an invalid sexual identity. In addition, the relative lack of research and education on bisexuality contributes to the confusion – and the concurrent anxiety and depression – that many bisexuals experience.<sup>37</sup> Frequently they ‘come out’ as gays or lesbians before coming out again as bisexual, simply because they themselves do not see bisexuality as a ‘valid’ sexual identity.

Additionally, interviews conducted by IRQR suggest that it is safe practice for any queer refugee applicant to assume a general lack of knowledge among authorities screening refugee claims in regard to bisexuality. The majority of decision makers are neither sufficiently educated on the subject of the various gender identities, nor properly trained to deal with them should the need arise to professionally apply their knowledge to the idiosyncrasies and special circumstances of each individual case. Not only must a refugee claimant have had to surmount all societal, familial, and legal obstacles to arrive at the stage of making a claim, but he or she faces the challenge of educating themselves, the medical practitioners, and the immigration authorities on the subject of the various gender identities. Being articulate on such matters becomes indispensable improve their lives domestically and socially. This education must be accompanied by the proper training on the procedures and particulars of engaging with those with whom they must interact in their individual claims.

#### v. Society & Institutions: Unsafe handling by Medical Practitioners and Social Actors – Sex Reassignment Procedures

The Protocols of an Interview with an Invisible Man, No. 7:

Later on in 2003 I went to see a psychologist recommended by my mother. I was much more serious this time and I explicitly told him that I am homosexual and want to live the way I am and I want to solve the problems I have with my family. I went to a few sessions and

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<sup>37</sup> Patrolling the Borders of Sexual Orientation: Bisexual Refugee Claims in Canada, Sean Rehaag. McGill Journal <http://lawjournal.mcgill.ca/userfiles/other/2501487-Rehaag.pdf>

my mother spoke to him as well. The doctor recommended that I should try to have relationships with the opposite sex. He asked my parents to take steps in this direction [of initiating relationships with females] but they did not show any flexibility and I did not do anything either. So as a result my second attempt at seeing a doctor also ended in failure.<sup>38</sup>

Numerous LGBT Iranians are also forced to undergo medical and psychological treatment under the pretext of curing their same-sex sexual orientation. During interviews with Human Rights Watch, individuals described how their families had sought the intervention of a variety of health care providers such as family practitioners, gynecologists, neurologists, and psychologists. The individuals recounted a process that was psychologically and at times physically abusive in the sense of denial of freedom to decide on matters bearing on their sexuality, and of pressures to undergo extensive or invasive treatment to change that sexuality..

To illustrate, some Iranians reported how their parents had taken them to ‘sexologists’ and psychiatrists who specialize in the diagnosis and treatment of sexual and gender issues. Treatment options varied depending on the diagnosis of the symptoms: psychological counseling, ‘drug therapy,’ etc. There have been cases where lesbians required hospitalization after being prescribed dangerous medication typically given to patients with serious mental illnesses.

Such cases of mistreatment may be seen as culminating in a medical recommendation for sex reassignment surgery and the accompanying hormonal drug therapy. Gay Star News reports that in less than four years, from 2006 to 2010, over 1366 gender reassignment operations were performed in Iran.<sup>39</sup> These operations almost invariably lead to serious physical complications, depression and in some cases, suicide.<sup>40</sup>

It is clear from some cases that sex reassignment has been inappropriate as an alternative to prohibited sexual orientations, and has worsened the circumstances of those who have undergone the treatment, thinking that their situation will improve.<sup>41</sup> This is especially the case where factors such as familial and societal pressures are main reasons for the reassignment and not the decision-making of the individual herself or himself. Government pressures are a further factor, given the probation on

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38 38 Iran Human Rights Documentation Center, Witness Testimony: Witness Statement of Hamed, an Iranian homosexual, (New Haven: Iran Human Rights Documentation Center, 2013), online: <http://www.iranhrdc.org/english/publications/witness-testimony/1000000263-witness-statement-of-hamed-an-iranian-homosexual.html#.UtbsQmRDvck>

39 Dan Littauer, “Iran performed over 1,000 gender reassignment operations in four years,” Gay Star News, September 4, 2012. <http://www.gaystarnews.com/article/iran-performed-over-1000-gender-reassignment-operations-four-years041212>

40 The Gay People Pushed to Change their Gender, BBC World <http://www.bbc.com/news/magazine-29832690>

41 This discussion is not to say that sex reassignment is not appropriate in circumstances where men or women know that they have been borne into the wrong body and there is clear psychological bases for the procedures.

homosexuality and official encouragement of (though not real support of) sex reassignment.

Where sexual orientation remains the same for example, the individual may find her choice of sexual partners rejected by family and friends, in spite of the sex reassignment. For example, Anahita, a male-to-female transgender Iranian, deals with a family who is not accepting of her new gender identity. Although she is now engaged to her boyfriend, her brother continues to refuse to identify her as his sister. “They pray for me to die soon. If I'd known that my family would truly shun me like this, I would never have done it.”<sup>42</sup>

## The Public Image of Iranian Queers & the Media

The Protocols of an Interview with an Invisible Man, No. 43:

One thing that really helps in changing the general public's views is when homosexuals come out of hiding. When a homosexual sits in front of the camera and people can see his face on television, it makes a very big difference. When I tell people at work that I am gay and they look at me and they see there's no problem, this changes their outlook. This is the most effective thing we can do because theoretical discussions have limited impact.<sup>43</sup>

The comment points to the differences that being visible can make in the popular image of queer Iranians. As has been noted, the marginalization of the LGBT community in Iran enables stereotypical imaging and helps to perpetuate popular misunderstanding and discrimination. Access to means to project the “humanity” of individuals, with their sexual orientation visible, has been severely limited or non-existent in traditional media.

The popularization of the Internet and social media has enabled Iranian LGBT communities to become more visible. The government's efforts to mute the voices of queer Iranians is no longer limited to television, radio, and the public sphere. Moreover, the Iranian state's media policy of eliminating the presence of queers from the newsrooms and news spaces directly works to erase the existence of Iranian queers from public view while at the same time indirectly and systematically shaping and guiding the discourse of ignorance and prejudice that circulates about homosexuality.

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<sup>42</sup> Vanessa Barford, “Iran's 'diagnosed transsexuals,’” BBC News, February 25, 2008. <http://news.bbc.co.uk/2/hi/7259057.stm>

<sup>43</sup> Iran Human Rights Documentation Center, Witness Testimony: Witness Statement of Hamed, an Iranian homosexual, (New Haven: Iran Human Rights Documentation Center, 2013), online: <http://www.iranhrdc.org/english/publications/witness-testimony/1000000263-witness-statement-of-hamed-an-iranian-homosexual.html#.UtbsQmRDvck>

## i. The State Media: No Queers, Not Even on the Television

Positive dialogue or images of LGBT Iranians can rarely be found in state-controlled media outlets. This reinforces widespread ignorance and prejudice on minority sexuality, creating a national population that avoid or neglect the issues that lead to and reinforce discrimination on the basis of sexual orientation and gender identity.. One commentator observed:

A lack of information, and, more importantly, the fear of talking about social phenomena, results in negligent people and negligent experts. Today, in Iran, there is a total taboo on homosexuality, either in rejecting it or accepting it, in the official media.”<sup>44</sup>

## ii. Publishing: A History of Censorship

This taboo on homosexuality extends beyond the news media and pervades the publishing world. On June 8, 2012, government officials ordered the permanent closure of the renowned and respected Tehran publishing house, Cheshmeh. The government originally justified the decision by stating that some of the content published by this outlet was offensive to religious tenets. However, on June 22, a high-ranking Iranian official was quoted saying that the publishing house was also accused of disseminating content “promoting homosexuality, incest and immoral sexual relations.”<sup>45</sup> He went on to declare: “Even the censorship officers were ashamed to review the books.” Hossen Alizadeh, a representative of the International Gay and Lesbian Human Rights Commission (IGLHRC), interprets the recent closure of Cheshmeh as an example of “how the sodomy law and anti-LGBT hysteria harm the entire society, including intellectuals and members of civil society who are simply interested in examining the issue of homosexuality.”<sup>46</sup> Gorji Marzban, an activist and chair of the Austria-based Oriental Queer Organization, also points out: “There is not even one single book in Iran published about



<sup>44</sup> “LGBT Republic of Iran: An Online Reality?”, pages 55-56, Small Media, May 2012. <http://smallmedia.org.uk/lgbtrepublic.pdf>

<sup>45</sup> Dan Littauer, “Iran shuts Publisher for ‘Promoting’ Gay Sex and Immorality,” Pink New, June 24, 2012.

<http://www.pinknews.co.uk/2012/06/24/iran-shuts-publisher-for-promoting-gay-sex-and-immorality/>

<sup>46</sup> Ibid.

homosexual relationships.”<sup>47</sup> A gay Iranian poet also notes that “alternative literature is censored by the Ministry of Culture and Guidance, but gay literature is prohibited from even being sent to the Ministry; we are non-existent, even in literature.”<sup>48</sup>

In another instance, a book entitled *Shahed Baazi* by Cyrus Shamisa was ordered off the shelves – despite being initially approved – because in it certain notable Persian authors were regarded as homosexuals or bisexuals.<sup>49</sup> The homophobic Iranian censorship machine is both systematic and totalitarian.

### iii. The Internet: The Soft War Against Iranian Queers

The Internet provides a digital milieu of communication within and beyond Iran’s borders. However, it has become more rigorously policed by the Iranian state in its efforts to monitor and control the behavior of its citizens. Although Iran initially only censored material deemed indecent, it has now expanded to include limitations on individual self-expression. The Iranian government recently passed legislation prescribing a sentence of either extreme punishment or execution for those caught hosting or distributing content that is “anti-religious, pornographic, or uncomplimentary to government officials.”<sup>50</sup> Websites that contained any reference to homosexuality were the first to be shut down, and their moderators were prosecuted and intimidated. For example, Yahoo chat rooms, initially the popular places of bonding and communication between queer Iranian, became unsafe spaces of surveillance after the authorities began cracking down on users who frequented their domains.

Moreover, these chat rooms represented forums for networking, campaigning and activism for the LGBT community inside and outside Iran. For example, Farzan, who fled from Iran to Turkey where he applied for refugee status based on his sexuality, stumbled upon Iranian gay rights activist, Arsham Parsi, in a Yahoo chat room. At the time, “Parsi was looking for information on two young men who were about to be executed in Arak on sodomy charges.” Farzan, subsequently, began a lasting and influential working relationship with the Iranian Railroad for Queers [IRQR], before he was eventually forced to leave Iran after the authorities began surveying his activities.<sup>51</sup>

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47 Ibid.

48 Ibid., pg. 64

49 “LGBT rights in Iran,” <http://www.nationmaster.com/encyclopedia/LGBT-rights-in-Iran>

50 Arsham Parsi, “Stripped of Basic Civil Human Rights in Iran,” KAOSGL website, Feb 16, 2012.

<http://www.kaosgl.com/page.php?id=10617>

51 David Graham, “The Iranian Railroad for Queer Refugees leads to Toronto,” *The Toronto Star*, Nov 12, 2010.

[http://www.thestar.com/life/2010/11/12/the\\_iranian\\_railroad\\_for\\_queer\\_refugees\\_leads\\_to\\_toronto.html](http://www.thestar.com/life/2010/11/12/the_iranian_railroad_for_queer_refugees_leads_to_toronto.html)

The law and its rigorous enforcement reflect the concerted efforts of the authorities to silence human and civil rights activists, as well as gay, lesbian, bisexual and transgender bloggers whose only means of communicating with the outside world – and often with other sexual minorities – is the Internet. Accordingly, Iranian authorities have attempted to restrain the country's ever-growing community of bloggers. To reduce their numbers, Iranian authorities require bloggers to obtain licenses from the government. In addition, authorities require Internet providers to install filters in order to control online traffic.<sup>52</sup> Further, Iranian bloggers may be arrested for "publishing stories and articles containing obscene and unethical sexual relationships," or for referring to extra-marital and same-sex relationships. For example, an Iranian LGBT blogger reports that on receiving "a number of threats from Gerdab, the investigative arm of the Cyber-Crimes Office of the Islamic Revolutionary Guards."<sup>53</sup> One such message from Gerdab mentions:

Iran's cyber army is ready to identify and wipe out corrupt and decaying social groups. Everyone who works behind this weblog has been identified. The Cyber Army of the Islamic Republic of Iran has identified all the people who work on putting up websites and weblogs with immoral content.<sup>54</sup>

There was also the arrest, trial and conviction of Asqar R.L.A., a 39-year-old male residing in Shiraz, and Maryam G., a 27-year-old female residing in Yazd. Although neither of the two identified as gay, lesbian or bisexual, they confessed to publishing on-line articles and stories on same-sex relationships, and by doing so, spreading homosexuality among the youth in Iran.<sup>55</sup>

Some blogs, renowned for their success in raising awareness about the absence of queer rights, have been filtered. Also, a number of queer bloggers have received official letters from the police, obligating their writers to cease all Internet activities or accept round-the-clock surveillance of their online activity, including the content of their e-mails.

In order to curb their proliferation in the future, the state intends to create its own 'clean' or so-called "Halal Internet," which will filter out content not approved by the government.<sup>56</sup> Accordingly, Internet café owners will be required to check identity cards and track each individual's Internet

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52 Ben Worthen, Mike Esterl, Siobhan Gorman. Iran's Web Spying Aided By Western Technology: European Gear Used in Vast Effort to Monitor Communications. Printed in The Wall Street Journal, page

A1. <http://online.wsj.com/article/SB124562668777335653.html> (Accessed on March 31, 2010)

53 "Human Rights Violations on the Basis of Sexual Orientation, Gender Identity, and Homosexuality in the Islamic Republic of Iran," IGLHRC's Submission to the 103rd Session of the Human Rights Committee, 17 October- 4 November 2011.

54 Ibid.

55 Gerdab Website. <http://gerdab.ir/fa/pages/?cid=157>

56 Daisy Carrington, "Iran tightens grip on cyberspace with 'halal internet'," CNN.com, June 3, 2013. <http://www.cnn.com/2013/06/03/world/meast/iran-internet-restrictions-halal-internet>

activity – this record will last for at least six months. An Iranian IT expert with knowledge of the new developments told *The Guardian* that developers were creating software robots that could analyze private communication such as emails or chat conversations.<sup>57</sup> While these changes will affect the lives of all Iranian citizens, they will have a particularly detrimental impact on the network of queer activists both within and outside of Iran who rely on the Internet for the vast majority of their communication and activism. Blogging and the online world have been crucial to the development of any sense of the queer community within Iran. Henceforth, if Iranian queers risk their safety by using the permitted platforms, they will be increasingly silenced by the government's specific filtering of queer-related content. Most queer bloggers and activists must write under pseudonyms for the sake of their own safety.

The Iranian government also engages in eavesdropping efforts in chat rooms, online dating sites, and other forums where attempts are made to contact LGBT users, in order to persuade the individuals to meet somewhere where the authorities await there, or encourage there to express something of an incriminating nature. Janet Afary, author of *Sexual Politics in Modern Iran*, notes that “the situation of Iran's queer community worsened after Ahmadinejad came to power...Internet chat rooms were set up by the state to trap gays and lesbians who responded to queries.<sup>58</sup> For example, Manjam, a popular online dating site and a valuable source of community-building for queer Iranians – and especially gay men – has been used by government agencies and other groups to frame the users.

While the surveillance in itself is directed almost entirely at the liberal end of the spectrum in terms of sexual orientation, the government supports conservative bloggers and even financially supports religious scholars who run anti-queer blogs, creating an online homophobic discourse that encourages intolerance and violence.

In spite of these limitations, there is evidence of efforts to create a space for an international-Iranian queer dialogue.<sup>59</sup> Queer bloggers in Iran form one of the strongest networks of bloggers in the Mid-Eastern region. They vigorously oppose homophobic legislation and criticize the Iranian authorities for denying them their basic human rights. IRQR is increasingly concerned about the dire situation queer bloggers now face as the Iranian regime extends its surveillance and censorship efforts. In this climate of physical and now cyber fear, queer Iranians are effectively made invisible

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57 Gerdab Website. <http://gerdab.ir/fa/pages/?cid=157>

58 “LGBT Republic of Iran: An Online Reality?”, page 62, *Small Media*, May 2012. <http://smallmedia.org.uk/lgbtrepublic.pdf>

59 One such campaign is a Facebook page launched in 2011, called “We Are Everywhere.” According to the ‘About’ section, the page “is run by Iranian Queers – we are queer, we are everywhere, we are fabulous, don't mess with us!”. The page, which has more than 7,400 ‘likes’ and features posts from users in various languages including English and Persian script, combines photos and videos from LGBT activists both within Iran and around the globe. However, considering that Facebook is one of the sites blocked within Iran (though it still has millions of users), it's unclear how effective this effort is at reaching those potential members who live in Iran.

in their lack of online presence to certain folds of the Iranian society who receive their news and programming solely through the official channels.

Moreover, the censorship and surveillance laws directly violate international norms governing cyberspace. The International Covenant on Civil and Political Rights (ICCPR)<sup>60</sup> affirms the right to privacy (article 17), security (article 9), and freedom of expression (article 19):

Freedoms that are routinely and systematically violated by the Iranian government's efforts to control and monitor the conduct and speech of Iranians, even in the private sphere. Home raids and Internet surveillance carried out by Iran's security forces violate the fundamental rights of all Iranians, not just Iran's sexual minorities, under the guise of moral conformity.<sup>61</sup>

#### iv. Iranian Transgenders: A Special Case Among Special Cases

The Protocols of an Interview with an Invisible Man, No. 35:

"The outlook of some transsexuals towards marriage and family is perhaps the same as heterosexuals. A male transsexual who wants to be a woman truly believes he is a woman and wants to marry a man or to have a boyfriend. They think like heterosexuals. If they have not had a sex change and wear make-up and change their appearance, they will face a lot of problems in society. We [Iranian society] have certain standards in our society and if you do not look like a man or dress in a particular way it will cause problems."<sup>62</sup>

Transphobic persecution is summarized as follows:

"In all traditional and patriarchal societies, in which non-conformity to clearly defined gender roles is not tolerated, people who identify as the opposite sex or who habitually wear the clothing or adopt the customs of the opposite sex have reason to fear persecution.... Transgendered people are indisputably perceived as a threat to gender and social norms: transgendered persons take on appearances and behaviours completely opposite to those generally expected by society.

Evidence of their sexual identity, in itself, is often seen as a provocation and justification for abuse and violence. Murder of transsexuals is not unheard of, nor is their execution by the state. For example, on April 25th, 2010 the body of Mahsa, a twenty-four-year-old woman who had

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<sup>60</sup> <http://www.ohchr.org/EN/countries/AsiaRegion/Pages/IRIndex.aspx>

<sup>61</sup> We Are a Buried Generation, pg. 60

<sup>62</sup> Iran Human Rights Documentation Center, Witness Testimony: Witness Statement of Hamed, an Iranian homosexual, (New Haven: Iran Human Rights Documentation Center, 2013), online: <http://www.iranhrc.org/english/publications/witness-testimony/1000000263-witness-statement-of-hamed-an-iranian-homosexual.html#.UtbsQmRDvck>



undergone gender reassignment surgery, was found to have been strangled to death in her apartment by her brothers.<sup>63</sup> Transgendered Iranians also face a greater threat of arrest, abuse and torture from the authorities than do their fellow Iranian gays and lesbians. Finally, the court proceedings are brutally degrading for transgendered Iranians.

There is also a more immediate dimension to the threat against the transgender Iranian: Most transgendered individuals cannot obtain legal employment permits unless they undergo sexual reassignment surgery. However, the cost of this operation is not absorbed by the state<sup>64</sup> and few transgendered Iranians have the financial means necessary to cover the costs of the procedure and the requisite hormone therapy. Forced into poverty and social exclusion, many turn to prostitution and risk contracting sexually transmitted diseases, beatings, rape, and even murder.

Once again, the discrimination against the Iranian transgender points to a lack of education on sexual orientation and gender identity in Iranian society. Faced with desperation and despair, and in the absence of proper pre-operation counseling, many Iranian queers proceed with the reassignment surgery only to realize later that their situation has worsened in the aftermath of the operation. Moreover, doctors often ignore the idiosyncratic emotional, psychological and physical conditions of the particular patient. Indeed, several of transgendered Iranians who were interviewed by IRQR regarding their sexual reassignment surgeries report abuse and assault during their treatment and the subsequent psychotherapy.

Finally, and critically, the Iranian government's support of sex change operations must not be interpreted as following a progressive agenda. Rather, it follows the same ideological guidelines and legalistic policies that aim to eliminate the queer 'problem' as opposed to accepting it with open arms. According to Human Rights Watch (HRW):

Human rights groups believe that the Iranian government's promotion of Sexual Reassignment Surgery (SRS), coupled with the fact that same-sex conduct is criminalized in Iran, creates a powerful incentive for gays, lesbians, bisexuals and transgender Iranians who do not wish to undergo surgery, to become, in effect, 'legal.'<sup>65</sup>

It is important to underscore that not all transgender individuals want the sex reassignment operation, but the public policy tends to force them in the procedure. In other words, the promotion of SRS by the regime is done with a mind of promoting and 'normalizing' heteronormativity. While it appears that this policy complies with the transgendered individual's wish for sex

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63 Dan Littauer, "Iranian Honour Killing: Trans murdered by her brothers in Tehran," Gay Middle East, September 12, 2010.

<http://womenborntranssexual.com/2010/09/18/iranian-honour-killing-trans-murdered-by-her-brothers-in-tehran/>

64 more [http://www.huffingtonpost.com/2012/06/04/iran-sex-change-operation\\_n\\_1568604.html](http://www.huffingtonpost.com/2012/06/04/iran-sex-change-operation_n_1568604.html)

65 We Are a Buried Generation, page 81.

change, in most cases it only serves to operate as a venue to ‘officially’ conform all transgendered identities to the standard, religiously and legally accepted binary terms of male/female. The IRQR is aware of cases where individuals who have had the sex reassignment operation are profoundly unhappy, especially where they were actually gay or lesbian and oriented to the same sex. Of course, there is no way back from such a profound life change.

## Summary: A History of Violence Against Queer Iranian

Ayatollah Khomeini once declared: Iranian homosexuals are “parasites and corrupters of the earth.”<sup>66</sup> Accordingly, in Iran, simply on the basis of one’s sexual orientation or gender identity, one may fear the threat of verbal and physical abuse, sexual assault, persecution, punishment, imprisonment, and often execution – a process not only initiated and perpetuated by the authorities, but one that has the support of every individual in the hierarchy of society – from families to individuals and institutions. It is in this context that the sex reassignment procedure may have a superficial attraction.

Arrest is followed by detention, detention by physical and/or sexual assault, and in many instances torture. The judicial validity of coerced testimony illustrates Iran’s non-compliance with international standards related to due process. Prosecuted sexual minorities may be condemned to lashings, imprisonment, and even execution; a cultural logic dictated by the cleric, politician, the family member or the friend. This is why Mahmoud Asgari and Ayaz Marhoni, two Iranian youths, “deserved to be executed or tortured, and possibly both.”<sup>67</sup> Executed in a public square, aged 16 and 18 respectively, it was only their sexual identity that deprived them of all societal protections and human rights. Falling in the category ‘the corrupters of the earth,’ their homosexuality inevitably made them enemies of the Iranian state.

However, and in spite of the mounting evidence of brutality, homophobia and discrimination against Iranian queers, governments that host LGBT asylum seekers do not always fully consider the degree of the risk that they face. It is important to bring this general state of prosecution to policy in respect of refugees and how governments treat LGBT refugee claimants from Iran. Unfortunately, often, asylum seekers face various obstacles, such as being unable to produce documentary evidence, during the proceedings, and, at times, they are deported back to

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66 Arsham Parsi, “Stripped of Basic Civil Human Rights in Iran,” KAOSGL website, Feb 16, 2012. <http://www.kaosgl.com/page.php?id=10617>

67 “LGBT Republic of Iran: An Online Reality?”, page 36, Small Media, May 2012. <http://smallmedia.org.uk/lgbtrepUBLIC.pdf>

Iran where they face prosecution and violence. In one such case, the UK government decided that Medhi Kazemi, 19, had to be deported back to Iran. Mr. Kazemi was in England in 2005 when his boyfriend was arrested for sodomy and subsequently hanged, naming Mr. Kazemi as his boyfriend during the trial's procedurals. Subsequently, Mr. Kazemi applied for asylum, fearing that he would be arrested upon return to Iran; his application was refused.<sup>68</sup>

As demonstrated, every aspect of the asylum request of Iranian queers may be marked by difficulty and misunderstanding if authorities are not aware of the pervasive persecution in Iran. In order for asylum cases to be properly understood, each aspect of the applicant's life must be considered, evaluated and examined, evaluated and made visible to every entity in the society – from family, to media, to the state. And on the way to this humane milestone, it is of utmost importance that LGBT asylum seekers and refugees, who seek a safe haven from the intense discrimination in Iran, be given the very basic human right to live in peace, secure from harm and hate in countries that host their flight from danger, death and invisibility.

## The Refugee Experience

All people should be able to enjoy all the human rights described in the Universal Declaration of Human Rights. Yet millions of people across the globe face execution, imprisonment, torture, violence and discrimination because of their sexual orientation or gender identity.<sup>69</sup>

### i. The Initial Challenge of Exile: Finding Shelter outside Iran

Article 14 of The Universal Declaration of Human Rights provides that “everyone has the right to seek and to enjoy in other countries asylum from persecution”.

The government of Iran does not offer protection to sexual minorities, as it believes that promotion of gay rights in the Middle East is a conspiracy led by western imperialists and that it is a product of liberal views of sexuality held by western societies.

Furthermore, article 3.1 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment provides that “No State party shall expel, return or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.”

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<sup>68</sup> “Gay Iranian to be Deported Despite Boyfriend's Hanging,” Oasis Magazine, March 12, 2008. <http://oasisjournals.com/2008/03/gay-iranian-to-be-deported-despite-boyfriends-hanging>

<sup>69</sup> Sexual Orientation and Gender Identity, consulted October 10th 2013, <http://www.amnesty.org/en/sexual-orientation-and-gender-identity>

The violation of these Conventions is demonstrated by the fact that Iranian laws are stacked against sexual minorities; the state openly discriminates against them; and they are vulnerable to harassment, abuse, and violence because their perpetrators can target them with impunity.<sup>70</sup> Moreover, there has been an increase in the frequency of individuals convicted of committing homosexual acts or public display of homosexuality and sentenced to death row or executed.<sup>71</sup> Not only are sexual minorities prevented from availing themselves of the general protections afforded under the law, they must also fear possible prosecution under the law should they seek help from authorities. For example, Iran's security forces, including police and forces of the hard-line paramilitary Basij, rely upon discriminatory laws to harass, arrest, and detain individuals whom they suspect of being gay.<sup>72</sup> It is not only queer Iranians who suffer persecution at the hand of the government, so do their allies. This is demonstrated in the case of Dr. Houtan Kian, a lawyer who has defended individuals accused of sodomy and adultery. He has reportedly been severely tortured, including sustaining close to 60 cigarette burns on his body, especially around his genitals and on his legs.<sup>73</sup>

## ii. The Refugee Process - Determination of Refugee Status

The granting of refugee status is a process that takes place in two stages. First, it is necessary to ascertain the relevant facts of the case. Second, adjudicators must assess whether the claimant qualifies as a refugee.. Article 1 A (2) of the 1951 Convention relating to the Status of Refugees states that a refugee is a person who:

“owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside his country of nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country.”<sup>74</sup>

Gay men, lesbians and bisexuals are considered to be members of a particular social group on the basis of their sexual orientation.

In evaluating an asylum seeker's case, it is important to take into account any and all factors that may serve to indicate that the predominant motive for the application is fear. Thus, the term “well-founded fear” contains a subjective and an objective element. Due to the importance that

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70 statement of Human Rights Watch director Sarah Leah Whitson

71 Iran, Country of Origin Information UK Home Office, 26 september 2013

72 We are a Buried Generation: Discrimination and Violence Against Sexual Minorities in Iran, Human Rights Watch Report, published 15 December 2010

73 according to the report of the UN special rapporteur

74 The 1951 Convention relating to the status of refugees, art 1 A (2)

the definition attaches to the subjective element, an assessment of credibility is indispensable where the case is not sufficiently clear from the facts on record. In general, the applicant's fear should be considered well-founded if he or she can establish, to a reasonable degree, that their continued stay in the country of origin has become intolerably risky. Therefore, knowledge of the conditions in the applicant's country of origin is a prerequisite in assessing the applicant's credibility.

Evidence confirms that Iran's sexual minorities suffer much harassment, discrimination, and abuse at the hands of state and private actors, including members of their family and society at large. For many LGBT persons, the strained bonds with their families leave them more vulnerable to abuse. As a gay Iranian living in exile pointed out there is a pattern of harassment and abuse experienced by many LGBT persons at the hands of family members:

"Problems arise when family members start to realize that you are different from them because of your appearance, the way you act, or the things you say. They can't accept this, and your problems begin. For example when I was a child, the older cousins and children would always make fun of me. They would even take me to an empty room and sexually violate me."<sup>75</sup>

It is clear that the environment in Iran today is such that sexual minorities, who are often the victims of abuse and violence, are instead treated as culprits, and LGBT persons are often seen as diseased criminals, or corrupt agents of Western culture.<sup>76</sup> In that matter, several prominent psychiatrists, psychologists, and sexologists, operating with the tacit approval of the state, have counseled hundreds of gay, lesbian, bisexual, and transgender (LGBT) Iranians to diagnose and "treat" their sexual "deviancy".<sup>77</sup>

What is more is that article 9 of the International Covenant on Civil and Political Rights (ICCPR) affirms that "everyone has the right to liberty and security of person" and prohibits "arbitrary arrests". In Iran gay parties and hang-out places are often targeted by officers who create false charges against gay, lesbian and transgender persons and who blackmail those who fear public disclosure. Another example of arbitrary arrest is that of Siamak Ghaderi, a journalist working



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<sup>75</sup> We are a Buried Generation: Discrimination and Violence Against Sexual Minorities in Iran, Human Rights Watch Report, 15 December 2010, p. 35

<sup>76</sup> We are a Buried Generation: Discrimination and Violence Against Sexual Minorities in Iran, Human Rights Watch Report, published 15 December 2010

<sup>77</sup> We are a Buried Generation: Discrimination and Violence Against Sexual Minorities in Iran, Human Rights Watch Report, published 15 December 2010

for the state news agency, IRNA. He was arrested and sentenced to four years in jail for having published a series of interviews with the country's homosexuals in 2007. As of October 10th 2013, he was still in prison for "spreading propaganda against the regime" and was reportedly lashed 60 times in 2012.<sup>78</sup>

Equally importantly, the ICCPR states that nations that have not abolished the death penalty must impose it only for the "most serious crimes". The Human Rights Committee, which authoritatively interprets the covenant, has said that the death penalty should be a "quite exceptional measure". Yet, Iranian law criminalizes all sexual relations outside the traditional bonds of marriage<sup>79</sup> and Iran is one of a few countries that applies the death penalty to consensual same-sex conduct.

Asylum seekers rarely use the terms "fear of persecution" or even "persecution" in their testimonies. While a refugee may have very definite opinions for which he or she has suffered, they may not, for psychological reasons, be able to describe adequately their experiences and situations. What is feared may not be articulated. In other words, those with a well-founded fear of persecution on the basis of their sexual orientation meet the Geneva Convention's definition of a refugee. There is no demonstrable protection of members of the LGBT community in Iran, not least because the state refuses to investigate, prosecute, and punish private actors, including family members who perpetrate violence against members of Iran's sexual minorities, further violates its obligations under international law and exacerbates the conditions of the applicants fear.

The UK Home Office reports that if individuals choose to live discreetly because they want to avoid embarrassment or distress to their families and friends they will not be deemed to have a well-founded fear of persecution and will not qualify for asylum. But note that the U.K Supreme Court has ruled that there is in fact no requirement for LGBT to be discreet in order to avoid persecution. They are not prohibited from applying for refugee status merely because they have tried to hide their sexual identity. They may have adopted a lifestyle to cope with social pressures and not because they fear persecution due to sexual orientation. In this regard case reviewers should consider carefully the evidence of the homophobic culture that is pervasive in Iranian society and conclude that gay men and lesbians face ostracism and abuse from their families and friends.<sup>80</sup> Some risk horrific punishments, including the death penalty and heavy jail sentences; others are bullied and forced into exile.<sup>81</sup> It is precisely the very real fear of

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78 Journalist still in jail after disproving Ahmadinejad's denial of gay Iranians, Iran Blog, The Guardian  
<http://www.theguardian.com/world/iran-blog/2013/oct/08/journalist-jail-disproving-ahmadinejad-denial-gay-iranians>

79 Islamic Penal Code, Book 2, chapter 1-3

80 Operational Guidance note Iran, Home Office, UK Border Agency, October 2012,

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/countryspecificasylumpolicyogons/iran-ogn?view=Binary>

81 Iran arrests "network of homosexuals and satanists" at birthday party, Saeed Kamali Dehghan, Thursday 10 October 2013,  
<http://www.theguardian.com/world/2013/oct/10/iran-arrests-network-homosexual-satanists>

persecution that has driven queer Iranians to flee their homes in secret and seek asylum abroad.

### iii. The State of Transition

#### a) Refugees in Urban Centres

The image of a refugee in many people’s minds is one of rows of white tents in a makeshift emergency camp. But the reality is that more than half of refugees live in urban areas, trying to make ends meet in cities and towns. Cities present obvious opportunities for refugees to remain anonymous and build a new life. However they also present dangers because refugees may not have legal documents. Refugees in urban areas also risk having to face other challenges including prohibitions on movement and residence, lack of documentation, threat of arrest and detention, harassment and exploitation, and limited access to formal health and education systems.<sup>82</sup>

Studies have yet to report conclusive and in-depth figures relating to the safety of refugees and displaced people in cities and vice-versa. In some cases this is due to a lack of statistical evidence – many attacks on urban refugees go unreported, for example. In other cases, however, there is a conflict between widely accepted views and more probable realities – for example there is a widespread belief that refugees take away jobs from locals, yet in some cases it is more likely that they are not permitted to work. Also reports from ORAM and HIAS have noted that certain countries do not offer social and legal recognition to refugees (even with UNHRC status).

#### b) Taking a Trip on the “Railroad”

Historically, Turkey has served as a bridge between the East and West and between the North and South. Various groups of different nationalities, including Iranian nationals, enter Turkey with the intention of seeking temporary or long-term asylum.<sup>83</sup> Patterns of asylum and other forms of irregular migration to and through Turkey have been very much determined by the nature and evolution of Turkish asylum and migration policy.



<sup>82</sup> In search of solidarity, The state of the world’s refugees, The UN Refugee Agency, UNHCR 2012

<sup>83</sup> Irregular migration and asylum in Turkey, Working paper no. 89, Celia Mannaert, Evaluation and Policy Analysis Unit, UNHCR, Geneva, May 2003, www.unhcr.org

Known to have a relaxed visa policy, it is only in recent years that Turkey has begun introducing specific visa requirements. The draft of Turkey's first-ever asylum law was submitted to Parliament in 2012, and the section on asylum procedures was scheduled to enter into force by the end of 2013.<sup>84</sup>

Under the framework of the 1994 Asylum Regulation, amended in 1999 and 2006 and supplemented by a government directive the same year (2006 Circular), Turkey provides non-European refugees like Iranian ones with "temporary asylum-seeker status" and permission to remain in the country until the UNHCR finds long-term solutions for them elsewhere.<sup>85</sup> In June 2006, the Turkish government formally defined the procedure in a circular outlining the specific rights, benefits, and obligations of temporary asylum applicants. Non-European refugee claimants in Turkey are required to file two separate applications, one with the UNHCR and one with Turkey's Ministry of Interior. The purpose of the government procedure is to determine, independently from the UNHCR assessment, whether the applicant has a legitimate need for temporary asylum application with the Turkish national legislation.<sup>86</sup> Therefore, Turkey's asylum legislation allows significant room for administrative discretion in the processing of applications for temporary asylum.

Asylum seekers who have had their cases rejected by the authorities are rarely pursued and can remain in the country illegally, but given the limited local integration options, resettlement remains the primary long-term solution for non-European refugees in Turkey.<sup>87</sup>

In regards to Iranian asylum-seekers, several hundred lesbian, gay, bisexual and transgender (LGBT) refugees have left Iran with help from an "underground railroad" leading them from Iran to Turkey and then onwards to other countries, mainly Australia, Canada and the United States.<sup>88</sup>

In Canada, the Iranian Railroad for Queer Refugees (IRQR), supports queer refugee claimants in Turkey by connecting them with UNHCR offices and assists asylum-seekers. As of January 2014, IRQR had helped to process more than 820 refugee applications (since 2005).<sup>89</sup>

### c) The Wait Ahead

Once in Turkey, Iranian refugees are in a state of limbo. They do not know how long it will be until they are assigned to a new country by the UNHCR, and they do not know where they will go next. After an initial interview at which they are granted refugee status, they wait for a second interview. After a second interview, they wait for a third. Finally, if all

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84 2013-UNHCR country operations profile - Turkey, [www.unhcr.org](http://www.unhcr.org)

85 2013-UNHCR country operations profile - Turkey, [www.unhcr.org](http://www.unhcr.org)

86 Unwelcome Guests : The Detention of Refugees in Turkey's "Foreigner's Guesthouse", Rachel Levitan, Esra Kaytaz, Otkay Durukan, *Refuge*, Vol. 26, Number 1, York University

87 Irregular migration and asylum in Turkey, Working paper no. 89, Celia Mannaert, Evaluation and Policy Analysis Unit, UNHCR, Geneva, May 2013, [www.unhcr.org](http://www.unhcr.org)

88 Iranian LGBTs flee persecution via "underground railroad", Marie Doezema, *Global Post*, 17 May 2013

89 Iranian Railroad for Queer Refugees, <http://english.irqr.net/about-our-work-what-we-do/>



goes well, they are assigned a new country and given a date of departure. The average waiting time is eighteen months.<sup>90</sup>

During this time, asylum seekers are in principle granted legal status pending repatriation or resettlement as long as they register with the authorities within 15 days. Yet, non-European refugees are usually subjected to Turkey's general laws on foreigners entering the country in that they must possess a valid passport and are required to leave within the limited period of stay.<sup>91</sup>

In theory refugees and asylum seekers are entitled to work and receive social assistance in Turkey, but in practice it is very difficult to obtain work permits and social support programs are virtually non-existent, with the exception of those provided by the UNHCR. In other words, Turkey is underdeveloped in the area of social services provision such as housing, healthcare, counselling, legal advice and training.<sup>92</sup> Therefore life turns into a mixture of stress and boredom. While some are in touch with their friends and family back home, many are not.<sup>93</sup>

What is more, lesbian, gay, bisexual and transgender people's rights to freedom of expression and association have been repeatedly threatened by the government.<sup>94</sup> In order to remedy this problem, it would be preferable that Turkey refrain from consigning LGBT asylum seekers and refugees to "satellite cities," but rather allow them to reside in larger urban centres where they are less likely to be targeted based on their sexual orientation or gender identity. The independent reporter Marie Doezema sheds light on the lives of these refugees through her interviews:<sup>95</sup>

Shervin (not his real name and used for purpose of protecting his privacy), a gay man in his 20s, left his hometown in Iran because he feared not only imprisonment or execution, but also the possibility of having to undergo a gender reassignment operation. Shervin's problems with the Iranian government began when he applied for a passport. He hoped to leave the country to escape his boyfriend's family, who resented Shervin's relationship with their son and was becoming increasingly threatening towards him. In order to be issued a passport, Shervin had to provide proof of military service or military exemption. "In the medical center where I went, the doctors had checked [on the form] that I was transsexual", he says, adding that this was grounds for military exemption. Shervin left, flying to Ankara from Tehran. His boyfriend came four days later, illegally crossing the mountains into Turkey with the help of human smugglers. They say that life isn't easy in the industrial city of Kayseri, but that they are lucky as they have each other.

Alireza, a 27-year-old photographer and graphic designer, lives as part of a community of LGBT refugees in Denizli, located in Southwestern

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<sup>90</sup> Iranian LGBTs flee persecution via "underground railroad", Marie Doezema, Global Post, 17 May 2013

<sup>91</sup> Irregular migration and asylum in Turkey, Working paper no. 89, Celia Mannaert, Evaluation and Policy Analysis Unit, UNHCR, Geneva, May 2033, [www.unhcr.org](http://www.unhcr.org)

<sup>92</sup> Irregular migration and asylum in Turkey, Working paper no. 89, Celia Mannaert, Evaluation and Policy Analysis Unit, UNHCR, Geneva, May 2033, [www.unhcr.org](http://www.unhcr.org)

<sup>93</sup> Profiling Iran's LGBT Refugees, Marie Doezema, Global Post, 29 August 2013

<sup>94</sup> Turkey : end discrimination against lesbian, gay, bisexual and transgender people, Amnesty International, 20 June 2011

<sup>95</sup> Profiling Iran's LGBT Refugees, Marie Doezema, Global Post, 29 August 2013

Turkey. Back in Iran, Alireza had a job he loved and his own photography studio. He left everything in haste. His problems in Iran began about a year and a half prior to his departure, when he met up with a man he had chatted with over the internet, who turned out to be an undercover policeman. Alireza was taken to jail and held for 10 days and assigned 170 lashings. His situation worsened the next spring, when police showed up and arrested everyone during a party he had at his house. One of his sisters came to the police station and posted bail, using her house as collateral. Not feeling safe, Alireza didn't go home but hid at an aunt's house. A few days later, he left Iran. He says that the worst part now is waiting, worrying, and missing home.

Nasrin Sabokpa, a 26-year-old lesbian who fled to Turkey said that the last four years in Iran were so hard; she continuously had to hide herself and her sexuality from family and friends, everywhere she went. Increasingly, Sabokpa faced pressure at school and within society. She says she thinks that it is harder for women to escape than men because of their already reduced independence within Iranian society. She saw the underground railroad as a way to escape the discrimination and fear she faced on a daily basis. Though she is a friend with many fellow Iranian LGBT refugees, she says that the community has its divisions. "Here no one tells their stories to others. You never know who you can trust."

Mohammad, 29 and Danial, 26 moved to Canada from Iran as LGBT refugees, after transiting through Turkey. They are two of the several hundred LGBT refugees who have left Iran in the last six years and found help from IRQR.<sup>96</sup> This Iranian couple is trying to make a new life in Toronto, despite feeling they don't belong in that society. Nevertheless, having the right to "live here" makes them hopeful for a better future.

#### d) The Resettlement Process

The importance of resettlement as a tool of international protection extends to cases where it preserves or restores the basic dignity of a refugee's life and meets the specific needs of individual refugees whose life, liberty, safety, health or other fundamental rights are at risk in the country where they have sought refuge. Resettlement provides durable solutions for many of refugees who can neither safely remain in their first country of asylum nor return to their country of origin. To be submitted for resettlement, the applicant is determined to be a refugee by the UNHCR, which coordinates resettlement in close cooperation with governments and other institutions. This occurs when the applicant falls under one or more of the UNHCR resettlement submission categories, and resettlement is identified as the most appropriate solution.

Resettlement can be a tangible expression of international solidarity and a responsibility-sharing mechanism that allows states to help share the burden to protect refugees, and reduce challenges that may impact countries of first asylum.

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<sup>96</sup> Profiling Iran's LGBT Refugees, Marie Doezema, Global Post, 29 August 2013

Although national governments establish resettlement programs and decide which refugees will be admitted to their territories, it is local authorities and communities that provide support to refugees once they arrive.<sup>97</sup> Still, the number of resettlement places remains limited. In 2011, UNHCR estimated that 805, 000 refugees were in need of third-country resettlement, however only about 10 per cent of those places were available.<sup>98</sup>

Overall, resettlement is a dynamic tool and, when done effectively and with strategic vision, the results of resettlement can be far-reaching, even beyond the direct impact on the persons resettled. However, there is no obligation on countries to actually accept refugees, and they may be quite selective, which could well disadvantage LGBT persons, who may be the most vulnerable given pervasive persecution in Iran and problems of acceptance in many other countries. To truly be a durable solution, resettlement must offer refugees the support and opportunities necessary to facilitate their integration into their new community. Integration, particularly for those seeking asylum alone, is influenced by many factors, many of which are unique to each individual case.

#### iv. Connecting with a Country of Refuge – Finding a Durable Solution

A durable solution removes the objective need for refugee status by allowing the refugee to acquire the full protection of a state.

##### a) The Host Country

The right of an individual to not be returned to a country or territory where their life or well-being may be threatened on one of the grounds defined under the 1951 Convention – or non-refoulement – is the cornerstone of international refugee protection. The assessment of refugee status is incumbent upon the contracting state in whose territory the refugee applies for recognition of refugee status. That is to say that it is the duty of the national authorities of the host country to respect the 1951 Convention on Refugees (Articles 6 and 7). However, there are no means for sanctions to be applied to a country that fails to comply with the Convention. This is important to note as evidence confirms that, globally, governments and their asylum laws are applying a more restrictive interpretation of the Convention, making it more and more difficult for

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<sup>97</sup> One refugee resettled, many lives protected, Annual Tripartite consultations and working group on resettlement Newsletter, Issue 9, July 2013, Geneva, UNHCR, <http://www.unhcr.org/cgi-bin/tehis/vtx/home/pendocPDFViewer.html?docid=51dd24759&query=atcr>

<sup>98</sup> n search of solidarity, The state of the world's refugees, The UN Refugee Agency, UNHCR 2012

refugees and asylum seekers to obtain the protection to which they are entitled.<sup>99</sup>

Western countries, of course, that have standards of equality for sexual minorities, should be expected to provide opportunities for very vulnerable individuals to gain entry because of their sexual identity.

### b) Challenges: Culture, Language, Isolation, Employment, Education, Etc.

A persistent critique of efforts to find solutions for refugees is that the refugees themselves are insufficiently involved. When refugees are actively involved in the search for solutions, they often attach highest priority to mobility.

Indicators of integration – employment, housing, education and health – all demand action in the resettlement process. Investments need to be made at an early stage to ensure that sound coordinating infrastructures and processes are established for achieving these indicators. Self-reliance can be defined as the social and economic ability of an individual to meet essential needs in a sustainable manner and with dignity. Self-reliance among refugees thus reduces the burden on the country of asylum by decreasing refugees' dependence on its assistance and boosting their dignity and confidence by giving them more control over their daily lives and hope for the future. Self-reliance projects, generally conducted by non-governmental organizations, often benefit local communities allowing refugees to become agents of development, by empowering them through adequate tools and skills.

What is more, refugees generally have a high level of motivation not only to rebuild their own lives, but also to make a meaningful contribution to the receiving society. For example, the World University Service of Canada's Student Refugee Program (SRP) helps young refugees achieve their educational goals in Canada by employing a unique youth-to-youth sponsorship. The SRP is the only one of its kind that combines post-secondary education with resettlement.

### c) Finding a Community and Local Integration

Thousands of refugees who flee their home and seek safety, have to deal with the challenges of their new country, such as learning how to navigate through a new city, locate the resources needed to help them through their adaptation and settlement phase, apply for a bank account, find legal advice, get primary medical care, and find trauma support services.

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<sup>99</sup> Danish refugee council, overview and trends of refugees, <http://drc.dk/conventions-and-definitions/definitions/refugees-overview-and-trends/>

The 1951 Convention envisages a framework for refugee protection that is conducive to local integration. Local integration is a legal, economic and socio-cultural process aiming at providing the refugee with a safe permanent and long-term home in the country of asylum. If local integration is to be achieved, it requires an agreement by the host country and a cooperative environment that builds on the resources refugees bring with them. States with developed asylum systems have recognized local integration as the predominant durable solution for refugees. There is, nevertheless, an increasing trend in many countries to focus more on cessation of refugee status and repatriation by granting more limited and temporary forms of asylum. This process often delays or undermines the success of local integration.

Integration is not, however, a one-way street that only benefits the individual. Refugee integration can provide benefits to the host country as well. Many bring with them skills that contribute to the socio-economic development of local communities. They also contribute cultural diversity and a variety of new perspectives that may have previously been absent from their new home.

#### v. Conclusion: What is the promise of refuge, and is it upheld?

The 1951 UN Refugee Convention and its 1967 Protocol remain the cornerstones of the international refugee protection system. The Convention is intended to confer a right to international protection on people who are vulnerable because they lack national protection, and to assure refugees the widest possible enjoyment of their rights.

Pressure on the international protection system is compounded by threats to the institution of asylum and the declining availability of traditional solutions to refugee problems. People who seek asylum in another country face widely disparate protections based on the country. This is characterized by countries with divergent approaches and inconsistent practices, for example both signatory and non-signatory states offer very different types of protection to asylum seekers, ranging from full entitlements and enjoyment of social and economic rights, to strict limitations upon these rights.<sup>100</sup> The integrity of an international refugee protection system is, therefore, undermined by the inconsistent practice of asylum. Both signatory and non-signatory states' violations of the Convention range from denial or failure to uphold refugees' socio-economic rights to egregious acts of refoulement.<sup>101</sup>

Concerned governments must recognize that at times, particularly in the case of LGBT refugees and asylum seekers, neither integration into the

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100 In search of solidarity, The state of the world's refugees, The UN Refugee Agency, UNHCR 2012

101 In search of solidarity, The state of the world's refugees, The UN Refugee Agency, UNHCR 2012

country of asylum nor return to the home country are legitimate possibilities. Asylum or refugee-hosting countries must prohibit refoulement of LGBT refugees or asylum seekers to Iran based on the mistaken idea that there is no systematic persecution of sexual minorities in Iran, or that LGBT persons can live comfortably in Iran as long as they conceal their sexual orientation or identity.<sup>102</sup> In fact, the United Nations High Commissioner for Refugees is poised to implement policies and recommendations to safeguard the rights of Iran's vulnerable LGBT refugees and asylum seekers. They are also developing training materials based on UNHCR's Guidance note on Refugee Claims Related to Sexual Orientation and Gender Identity and the 2002 UNHCR Guidelines on Gender-Related Persecution.

In conjunction with the UNHCR's recommendations, and taking into account the unique situation of refugee claimants on the grounds of their sexuality, it is imperative that Iranian LGBT asylum seekers be treated with dignity and that their human rights be respected at all levels, included but not limited to their freedom of mobility.

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<sup>102</sup> We are a Buried Generation: Discrimination and Violence Against Sexual Minorities in Iran, Human Rights Watch Report, published 15 December 2010

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