

For Immediate Release

Iran: Discrimination and Violence Against Sexual Minorities

Laws, Policies Put Already Vulnerable People at Even Greater Risk

(Amsterdam, December 15, 2010) – Discriminatory laws and policies against homosexuals and other sexual minorities in Iran put them at risk of harassment, violence, and even death, Human Rights Watch said in a report released today. Iran’s sexual minorities, especially those who identify themselves as lesbian, gay, bisexual, or transgender (LGBT), are victimized both by state and private actors in part because those actors know they can get away with it.

The 102-page report, “We are a Buried Generation: Discrimination and Violence Against Sexual Minorities in Iran,” based on testimony from more than 100 Iranians, documents discrimination and violence against LGBT people and others whose sexual practices and gender expression do not conform to government-endorsed socio-religious norms. Human Rights Watch analyzed these abuses within the context of the government’s violations against its general population, including arbitrary arrests and detentions, invasions of privacy, mistreatment and torture of detainees, and the lack of due-process protections and fair-trial guarantees.

“Members of sexual minorities in Iran are hounded on all sides,” said Sarah Leah Whitson, Middle East director at Human Rights Watch. “The laws are stacked against them; the state openly discriminates against them; and they are vulnerable to harassment, abuse, and violence because their perpetrators feel they can target them with impunity.”

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, Human Rights Watch found. The incidents often occur in parks and cafes, but Human Rights Watch also documented cases in which security forces [raided homes](#) and monitored [internet sites](#) for the purpose of detaining people they suspected of engaging in non-conforming sexual conduct or gender expression.

The report also documents instances in which police and *basij* allegedly ill-treated and in some cases tortured real or suspected LGBT people, both in public spaces and detention facilities. Several individuals interviewed made allegations that members of the security forces had sexually assaulted or raped them.

Navid, a 42-year-old gay man who owned a café outside Tehran, told Human Rights Watch about an attack he suffered in 2007 at the hands of two plainclothes agents whom he later discovered were members of the local *basij*. He said they picked him up as he was leaving work, handcuffed him, and drove him to his home. He said they pushed him out of the car, beat him, and forced him inside, where they sexually assaulted him.

"[One of them] forced his penis inside my mouth," he said. "I threw up and dirtied myself. They dragged me into the bathroom and washed me down with cold water. The whole time they continued to beat me all over."

He described how the agents then took him to another residence, where they locked him in a foul-smelling and dirty kitchen full of cockroaches.

"[One of the agents] took my clothes off," he said. "He then raped me with a flashlight and a baton. He just pushed me down to the ground and raped me. The other two joined in."

The report also documents serious abuses, including due-process violations that occurred during the prosecution of sexual minorities charged with crimes. Those charged with engaging in consensual same-sex offenses stand little chance of receiving a fair trial. Judges ignore penal code evidentiary guidelines in sodomy cases and often rely instead on confessions extracted through physical torture and extreme psychological pressure. Both Iranian and international law consider such evidence inadmissible.

In other cases, courts have convicted defendants of sodomy charges solely on the basis of "the knowledge of the judge" as "derived through customary methods." This evidentiary provision of Iran's penal code enables judges to rely on tenuous circumstantial evidence to determine whether a crime has occurred even in the absence of other evidence or in the presence of exculpatory evidence.

Iranian law reflects the state's hostile attitude toward sexual minorities. The penal code criminalizes all sexual relations outside of traditional marriage. Same-sex "crimes" are subject to *hudud*, punishment fixed under Sharia or divine [Islamic] law, where the claimant is deemed to be God. Punishments are severe. Under the Penal Code, *lavat* (sodomy) is punishable by death where a judge determines that penetration was involved.

Other forms of non-penetrative sex between men are punishable by 100 lashes for each partner and death on the fourth conviction. Same-sex relations between women, or *mosaheqeh*, bring similar punishments.

Under the penal code, "lustful" kissing between two men or two women is punishable by up to 60 lashes, and two men "who are not related by blood ... found naked under the same cover without any necessity," is punishable by up to 99 lashes. A host of other morality laws enforce sexual and gender conformity, including those barring, organizing, or participating in an "immoral" or "corrupt" gathering, or encouraging others to engage in "corrupt" and "obscene" acts. The penal code also criminalizes the production, use, and dissemination of material considered immoral under Iranian law, including LGBT websites, literature, and other paraphernalia.

Iran is one of only seven countries with laws allowing executions for consensual same-sex conduct. The others are Mauritania, Nigeria, Saudi Arabia, Somalia, Sudan, and Yemen.

Iranian newspapers and media outlets have published many accounts since the Iranian revolution in 1979 of [executions for same-sex conduct](#). The overwhelming majority of those executed or on death row are males charged with sodomy, including [juvenile offenders](#) who were under 18 when they allegedly committed the act. The Iranian government maintains that most of these individuals have been charged for forcible sodomy or rape.

Because trials on moral charges in Iran are usually held *in camera*, it is difficult to determine what proportion of those charged and executed for same-sex conduct are LGBT and in what proportion the alleged offense was consensual. Because of the lack of transparency, Human Rights Watch said, it cannot be ruled out that Iran is sentencing sexual minorities who engage in consensual same-sex relations to death under the guise that they have committed forcible sodomy or rape.

“Iran is not only one of the rare countries that imposes the death penalty for consensual same-sex relations, it also has people sitting on death row who allegedly committed sodomy as minors,” Whitson said. “Every time the Iranian judiciary issues a death sentence for consensual sex, or against a juvenile offender, it is violating its international legal obligations.”

Both the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights categorically prohibit capital punishment of people who were under 18 at the time of the offense. Iran ratified the ICCPR in 1975 and the CRC in 1994.

Iran is not unique in the region in criminalizing same-sex conduct or in the seriousness of the abuses suffered by its sexual minorities. There is, however, a very noticeable disconnect between Iran’s official stance against sexual minorities and the realities on the ground, especially in Iran’s larger urban areas. Despite President Ahmadinejad’s 2007 declaration that Iran has no homosexuals, thousands of Iranians identify themselves as LGBT and socialize in public and private, and contribute to vibrant and defiant LGBT communities in the Persian-language blogosphere.

Since 1979, the Iranian government has implemented several policies designed to deal with the complex realities of sexual orientation and gender identity in Iran today. On their face, some of these policies may appear accommodating. For example, the state legally recognizes transgender Iranians – as long as they agree to undergo sex reassignment surgery. It also allows gays, transgender males, or men who have sex with men to apply for a “behavioral disorder” exemption from military service if they can establish that they are gay or transgender.

But while these policies may accommodate, or even benefit some, they aim ultimately to control and enforce conformity, Human Rights Watch said. At times they expose sexual minorities to further harassment, abuse, blackmail, extortion, and torture.

“Abolishing Iran’s discriminatory laws and policies is critical to ensuring protection of its vulnerable sexual minorities,” said Whitson. “Those who perpetrate violence against Iran’s sexual minorities do so because they know that their victims have nowhere to turn for protection or justice.”

Human Rights Watch calls on the Iranian government to:

- Abolish all laws and other legislation under the Islamic Penal Code that criminalize consensual same-sex conduct;
- Immediately rescind any and all convictions and sentences against individuals for consensual same-sex conduct or relations, and immediately release anyone serving sentences for such convictions;
- Immediately rescind all death sentences imposed on individuals for the crime of *lavat* (sodomy) allegedly committed when they were under the age of 18, regardless of whether the act was consensual or forced;

- Prohibit public harassment, abuse, and gender-based violence against sexual minorities by security forces, including the Iran's *basij* units, and investigate and prosecute members of the security forces who engage in such actions;
- Cease all targeting and entrapment, including internet entrapment campaigns and home raids, by security forces against sexual minorities or people with non-conforming sexual or gender identities;
- Prohibit harassment, abuse, torture, and sexual assault of sexual minorities by security forces during detention, and investigate and prosecute members of the security forces who engage in such actions;
- Prohibit the use of testimony or confessions that appear to have been secured under torture or threat of torture or other ill-treatment in all prosecutions, including those related to same-sex conduct;
- Provide adequate access to physical and psychological services to transgender Iranians, including hormone therapy for individuals who have undergone sex reassignment surgery.

Human Rights Watch also called on other states and the Office of the UN High Commissioner for Refugees to implement policies and recommendations to safeguard the rights of Iran's vulnerable LGBT refugees and asylum seekers.

During the past several years, Human Rights Watch intervened on several occasions to ensure that countries, including [the Netherlands](#) and [Sweden](#), put a stop to the deportation of Iranian LGBT people who legitimately feared persecution if returned to Iran.

The Human Rights Watch report, “We are a Buried Generation: Discrimination and Violence Against Sexual Minorities in Iran,” is available at:

<http://www.hrw.org/node/94978>

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