



**Humanity Denied:**  
**The Violations of the Rights of Lesbian, Gay, Bisexual and  
Transgender Persons in IRAN**

**Submitted to the Special Rapporteur on the Human Rights Situation in Iran by:**

**Iranian Queer Organization – IRQO**  
**135 Tyndall Ave. # 312 | [www.irqo.org](http://www.irqo.org) | [board@irqo.org](mailto:board@irqo.org) | +1 416 407 5451 |**

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## **Acknowledgements**

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## Introduction

1. Discrimination and violence against lesbians, gays, bisexuals, and transgender (LGBT) persons in Iran is widespread in its scope and horrific in its consequences. This report does not undertake a comprehensive analysis of this culture of violence and discrimination. It is rather restricted to raising concerns about the most serious human violations faced by LGBT persons in Iran. As such, it examines three internationally recognized human rights which are of great relevance to sexual minorities: the right to life, the right not to be tortured or subjected to inhumane or degrading treatment, and the right to freedom of expression; and it examines the manner in which the Iranian government violates them with respect to sexual minorities.

### I. Religious, Penal and Political Approaches to Homosexuality

2. Under Shari'a law, the issues relating to homosexuality are all discussed under the category of *lavat* [consummated sexual activity between men] and *mosahegheh* [consummated sexual activity between women]. Various punishments exist in the Islamic Jurisprudence for the offences of *lavat* and *mosahegheh*. Some of the most severe punishments have been, however, prescribed by the school of Shi'ism. The following statement by a religious scholar of this school is indicative of the kind of punishment prescribed:

For homosexuals, men or women, Islam has given the most severe punishments ... After it has been proved on the basis of Sharia, they should seize him [or her], they should keep him standing, they should split him in two with a sword, they should either cut off his neck or they should split him from the head ... He will fall down ... After he is dead, they bring logs, make a fire and place the corpse on the logs, set fire to it and burn it. Or it should be taken to the top of a mountain and thrown down. Then the parts of the corpse should be gathered and burnt. Or they should dig a hole; make a fire in the hole and throw him alive into the fire. We do not have such punishments for other offences.<sup>1</sup>

3. The perspective presented above fundamentally informs and shapes the approach of Iran's penal regime to homosexuality.
4. Article 111 of Iran's Islamic Penal Code states "*lavat* [consummated sexual activity between males, whether penetrative or not] is punishable by death so long as both the active and passive partners are mature, of sound mind, and have acted of free will."<sup>2</sup>

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<sup>1</sup> Statement by Ayatollah Mousavi-Ardebili in a prayer sermon delivered at Tehran University (18 May 1990).

<sup>2</sup> Qanun-e Mujazat-e Islami [Islamic Penal Code] 1379 [2000], art. 111 [Penal Code].

5. According to Articles 121 and 122 of Penal Code, *tafkhez* [the rubbing together of thighs or buttocks, or other forms of non-penetrative “foreplay” between men] is punishable by one hundred lashes for each partner.<sup>3</sup> Recidivism is punishable by death on the fourth conviction.
6. Articles 127 to 134 stipulate that the punishment for sexual intercourse between women is 100 lashes and if the offense is repeated three times, the punishment is execution.<sup>4</sup>
7. In 2008, a New Penal Code was drafted which contains some important amendments to Iran’s sodomy laws. Article 221-19 of this new Code states: “The punishment of *lavat* for the active partner is death if it is non-consensual or it is committed by a married man, and is one hundred lashes if it is committed by a single man. The punishment of *lavat* for the passive partner is death so long as he is mature and of sound mind and has given his consent.”<sup>5</sup> *Lavat* is defined in Article 221-18 as “the insertion of the tip of the male organ in the anus of a male person, even if it is a corpse.”<sup>6</sup>
8. Articles 221-22 provides, “*tafkhez* is punishable by one hundred lashes for both active and passive partners regardless of whether it was consensual or forceful and committed by a single or a married man.”<sup>7</sup> *Tafkhez* is defined in Article 221-22 as “the rubbing of penis against a man’s thighs or buttocks even if it is a corpse.”<sup>8</sup>
9. Article 221-23 provides, “if two men or more lie naked under a blanket out of lust and without any necessity, they will be subject to a corporal punishment of up to 99 lashes.”<sup>9</sup> Article 221-24 adds “male homosexual conduct in cases other than *lavat* and *tafkhez* such as touching lustfully carries a corporal punishment of up to 74 lashes.”<sup>10</sup>
10. Article 221-27 stipulates that “*mosahegheh* is punishable by 100 lashes.”<sup>11</sup> *Mosahegheh* is defined in Article 221-26 as the rubbing of one female genital against another, even if it is a corpse.”<sup>12</sup>
11. Article 221-29 provides, “female homosexual conduct in cases other than *mosahegheh*

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<sup>3</sup> *Ibid.* art. 121-122.

<sup>4</sup> *Ibid.* art. 127 and 134.

<sup>5</sup> Qanun-e Mujazat-e Jadid-e Islami [New Islamic Penal Code] 1388 [ratified 2009], art. 221-19, available at <http://saleh.ruhollah.org/44>.

<sup>6</sup> *Ibid.*, art. 221-18.

<sup>7</sup> *Ibid.*, art. 221-22.

<sup>8</sup> *Ibid.*, art. 221-21.

<sup>9</sup> *Ibid.*, art. 221-23.

<sup>10</sup> *Ibid.*, art. 221-24.

<sup>11</sup> *Ibid.*, art. 221-27.

<sup>12</sup> *Ibid.*, art. 221-26.

such as touching lustfully carries a corporal punishment of up to 74 lashes.”<sup>13</sup> Article 221-30 adds, “if two women or more lie naked under a blanket out of lust and without any necessity, they will be subject to a corporal punishment of up to 99 lashes.”<sup>14</sup>

12. Generally, the official strategy of the Iranian government has been to deny the existence of homosexuals and homosexuality in Iran altogether in order to make the serious human rights violations faced by LGBT persons in Iran a non-issue. President Mahmoud Ahmadinejad’s now-infamous statement in the University of Columbia that “we don’t have homosexuals in Iran” was a prominent illustration of this strategy.

13. In a recent speech given in Yazd, Mr. Ahmadinejad made a reference to his statement at the University of Columbia, and noted:

There someone asked me about homosexuality and I responded that in Iran we don’t have the concept of homosexuality like the way you have in your country. In our country, homosexuality is considered to be a repulsive act. They made a big fuss over my statement, thinking that I would back off.<sup>15</sup>

Ahmadinejad added:

Homosexuality means the divorce of humanity from its integrity, and it has been condemned by all prophets. I do not want us to get to a point where we would live like people in the West with cats and dogs and consider them a part of our family.<sup>16</sup>

14. In a revealing statement, Mr. Rahim Masha’ee, Ahmadinejad’s chief of staff and a close confidant, said, “by we don’t have homosexuals in Iran” Ahmadinejad actually meant that unlike the United States, no one is making equality-oriented demands on behalf of homosexuals in Iran.<sup>17</sup>

15. In May 2007, two months after Ahmadinejad’s talk at the University of Columbia, Mohsen Yahyavi, a MP and a member of Iran’s parliament energy committee, told British MPs during a private meeting at a peace conference that in Islam “gays and lesbianism were not permitted.”<sup>18</sup> According to an article published in the Times, he

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<sup>13</sup> *Ibid.*, art. 221-29.

<sup>14</sup> *Ibid.*, art. 221-30.

<sup>15</sup> “Ahmadinejad’s view on homosexuality,” *Alef* (20 January, 2011), available at <http://alef.ir/1388/content/view/93350>.

<sup>16</sup> *Ibid.*

<sup>17</sup> “Masha’ee’s statement on homosexuality in Iran,” *Aftab News* (24 October, 2010), available at <http://www.aftabnews.ir/vdceoz8zzjh8zei.b9bj.html>.

<sup>18</sup> Dominic Kennedy, “Gays should be hanged, says Iranian Minister,” *Times Online* (13 November, 2007), available at [http://www.timesonline.co.uk/tol/news/world/middle\\_east/article2859606.ece](http://www.timesonline.co.uk/tol/news/world/middle_east/article2859606.ece).

explained that “if homosexual activity is in private there is no problem, but those in overt activity should be executed [he initially said tortured but changed it to executed]. He further argued that homosexuality is against human nature and that humans are here to reproduce. Homosexuals do not reproduce.”<sup>19</sup> When questioned about the sentence of death penalty for homosexuality, he responded by saying “homosexuality was to blame for a lot of diseases such as AIDS.”<sup>20</sup>

16. The above statements exemplify the dismissive but also vicious approach of the Iranian government to sexual orientation rights: Iranian LGBT persons are located in an official discourse that finds their non-heterosexuality to be a human impossibility; this discourse constructs the homosexual as the impure, Western, un-Islamic Other against whom the “real” human and the “authentic” Iranian is made; the homosexual becomes the less than human who is violently dehumanized and erased so that the appearance of a purely heterosexual society can be maintained.
17. The strategy of “simultaneous denial and demonization” discussed above has helped create an aura of compulsory silence and “unreality” around those Iranians who become the victims of serious human rights violations on the basis of their sexual orientation or gender identity. This culture of compulsory silence has led to the emergence of a number of wrong perceptions among both the Iranian public and the international community such as that “Iranian sexual minorities can lead peaceful lives so long as they live discreetly” or that “execution is an unlikely punishment because of the high standard of proof, necessary to establish the occurrence of *lavat*.” The instances described in this report speak, however, of a well-established pattern of widespread and systematic human rights abuses against Iran’s sexual minorities, and they should as such remove any doubt as to whether Iran’s sexual minorities face a risk to life or a risk of persecution, and cruel or degrading treatment.
18. The Iranian Queer Organization (IRQO) believes that the appointment of Mr. Ahmed Shaheed as the Special Rapporteur on the Human Rights Situation in Iran by the Human Rights Council of the United Nations offers an opportunity to highlight Iran’s repression of LGBT persons, and investigate in particular the execution cases related to *lavat* that are still pending before the courts. Hence, we urge the Special Rapporteur to utilize our report in analyzing the government’s violation of sexual minorities’ rights and recommend measures required to ensure respect for the basic rights of Iran’s LGBT persons to life, bodily integrity, freedom of expression and equality.

## **II. Life Denied: Execution of Sexual Minorities**

### ***i. An Overview***

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<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

19. According to gay and human rights groups, thousands of individuals have been probably executed since the early days of the 1979 revolution under Iran's sodomy laws.<sup>21</sup> The Abdorrahman Boroumand Foundation has documented 143 cases of such executions.<sup>22</sup> However, uncovering the facts of sodomy cases and estimating the number of execution sentences issued specifically for consensual homosexual conduct is an almost impossible task; charges for consensual homosexual conduct are usually conflated with charges for sexual assault, rape and non-sexual drug, and political offences; trials are often held *in camera* owing to fears of public controversy and condemnation; and families shy away from giving accurate and detailed information given the taboos around homosexuality.
20. Nonetheless, reports of homosexuality-related execution cases surface in state newspapers and websites every once in a while. Below, a few of these cases are briefly listed. These cases constitute only the tip of the iceberg however, and for every reported case, one can assume that there are a dozen that remain unreported. In most if not all of these cases, arbitrary executions sentences have been issued following rushed trials with little adherence to procedure. Judges overseeing sodomy cases often ignore the strict guidelines of the Iranian Penal Code, and instead use questionable investigative methods and inadmissible evidence to decide the case. Frequently, the convictions are based on forced confessions, made under extreme psychological pressure and torture. The courts do not allow independent observers to examine cases. Such practices violate the defendants' human rights to a fair trial, free from torture.
21. In March 2005, the Persian-language daily *Etemad* reported that two men were sentenced to death by the Tehran Criminal Court. They had been reported to the authorities by the wife of one of the men who had discovered a video tape of the two engaging in homosexual acts.<sup>23</sup>
22. In July 2005, two adolescent boys, Mahmoud Asgari and Ayaz Marhoni, were publicly hanged in the city of Mashhad, northeast Iran, after they allegedly admitted to the rape [*lavat beh onf*] of a 13-year-old boy. Both boys received 228 lashes before their execution. Prior to and following the executions, debates ensued as to the exact nature of their crime. Some gay and human rights groups maintained that the two were executed because they were gay while others condemned the execution but still made a careful distinction between consensual same-sex conduct and rape. This case typifies the lack of

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<sup>21</sup> Steven Eke, "Iran must stop youth executions," *BBC News* (28 July, 2005) available at [http://news.bbc.co.uk/2/hi/middle\\_east/4725959.stm](http://news.bbc.co.uk/2/hi/middle_east/4725959.stm).

<sup>22</sup> "Encountering Homophobia," *Abdorrahman Boroumand Foundation* (14 May, 2008) available at <http://www.iranrights.org/farsi/newsletter-4.php>.

<sup>23</sup> Scott Long, "Sweden: Stop Deportations of LGBT Iranians" (8 October, 2006), available at <http://www.hrw.org/en/news/2006/10/08/sweden-stop-deportations-lgbt-iranians>.

transparency in Iran's judicial system and the difficulty of reporting accurately on the execution of LGBT persons in Iran.<sup>24</sup>

23. In December 2007, a 21-year old boy, Makwan Mouloudzadeh, was executed for allegedly raping three boys when he was at the age of 13. Numerous irregularities riddled his trial and conviction. Makwan had repudiated his confession at trial which he claimed had been elicited through torture, and the purported victims had recanted their accusations as well. The Court convicted Makwan of *lavat* solely on the basis of "the knowledge of the judge." No evidence was provided either by the judge or the by complainants to establish that a penetrative sexual act had even occurred in the first place. Makwan's plight drew wide international criticism, partly due to the fact that he was under the age of eighteen at the time of committing the alleged offence which made him a child according to international law and under the age of fifteen which exempted him from criminal responsibility even under Iran's Penal Code. In November, the international outcry finally led the head of the judiciary to place a moratorium on the execution sentence and order a re-examination. Despite this order, local authorities executed Mawkan on December 5, 2007, to everyone's shock and horror.<sup>25</sup>
24. In 2010, reports surfaced of the immediate execution of a 17 year old boy in Mashhad for allegedly raping someone of the same sex. IRQO was able to get in touch with the boy's lawyer and get his information and home address. A journalist in Mashhad went to the boy's house and met with his older brother. The man denied, however, that his brother had engaged in any same-sex conduct, claiming that he had raped a young woman. He further informed the journalist of his brother's execution around two months prior to their meeting.
25. In 2010, IRQO received information from a gay man living in Kermanshah about the arrest of a relative between the ages of 16 and 18 on charges of engaging in same-sex relationships. It was said the mother of the boy reported his son to the police. The boy's father was allowed to visit his son after two months but he fainted once he saw the marks of torture on his son's body. IRQO was informed that the boy was given an execution sentence and tried to connect his family with human rights activists working in Kurdistan. The family refused to speak with the contacts, however, and denied that their son's arrest related to an engagement in same-sex relations.
26. In September 2011, the Iranian Students News Agency, a semi-official news agency, reported that three men, identified only by their initials, were executed in the south-western city of Ahvaz, the capital of Khuzestan province after being found guilty of *lavat*. As usual, it is not clear whether the three men had indeed engaged in consensual

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<sup>24</sup> Amnesty International, *Iran: The Last Executioner of Children* (June 2007) at 16-17, available at <http://www.amnesty.org/en/library/asset/MDE13/059/2007/en/b758ea94-d38d-11dd-a329->

<sup>25</sup> Mitra Shojayee, "Makwan Mouloudzadeh's lawyer: Makwan's execution was carried out in contravention of Iran's laws" *Deutsche Welle* (6 December, 2007) available at <http://www.dw-world.de/dw/article/0,,2992086,00.html>.

same-sex conduct or were merely smeared by sodomy laws so that they could be placed under a guaranteed death sentence.

*ii. Pending Execution Cases in Urgent Need of Investigation*

27. At the moment, there are at least five documented cases of individuals convicted under sodomy laws and awaiting execution. The detailed facts of these cases remain unknown for the most part, and the judicial authorities have so far refused to offer any helpful information about the exact whereabouts of the defendants and the status of their cases.
28. Below a brief overview of each case is provided. The Iranian Queer Organization urges the Special Rapporteur to launch an investigation into these pending cases, and take steps that will help prevent the accused from falling victim to yet again another arbitrary execution order grounded in homophobia and secured through an abusive legal process riddled with irregularities and violations of fair trial standards.
29. Ghaseem Bashkool, son of AzizAllah and born in 1984, was arrested along with another young man on May 31, 2007 on charges of sodomy. Both men were convicted despite an absence of credible evidence, and sentenced to death. At the time of the arrest, Qhassem was a third-year student of applied mathematics, but following his arrest, he was expelled from the university. The negative publicity around his case also took a toll on his family, causing them great social and economic hardship. The First District of the Criminal Court of the Ardabil province found both men guilty of sodomy and sentenced them to death. In February 2009, an open letter surfaced on the Internet in which he pleaded for his life. In his letter, Ghassem insisted that the sodomy allegation was baseless and that in the absence of any credible evidence, the judge had referred to the "knowledge of the judge" as the basis of his ruling. At the time of the writing of the letter, Ghassem had spent 20 months in Ardebil prison. No updated information is available on his case despite repeated efforts by a number of human rights defenders inside Iran to investigate the situation.
30. In February 2009, an informed source at the Fars Province Bar Association confirmed that the Fourth District of the Criminal Court in the Fars Province had convicted a man of sodomy charges and, in accordance with Article 110 of the previous Islamic Penal Code, had sentenced him to death penalty, which would be administered by throwing him off a cliff. Following the gruesome ruling of the Court, the accuser decided to withdraw his complaint and asked the Court to close the case. Instead, the Court ruled that the public aspect of the case (in the Court's language, "the violation of the divine law"), forces the Court to prosecute the defendant regardless of the accuser's demand. However, in the absence of the private complaint, the Court ordered a retrial and nullified the earlier ruling. IRQO is still in the process of gathering information regarding the current status of the ruling and the defendant. This has proven difficult, however, particularly because

of the government's heavy crackdown on human rights activists in the aftermath of the 2009 presidential election.

31. In February 2008, reports surfaced of the arrest of two young men, Hamze Chavoshi, 19 years old, and Loghman Hamzepour 18 years old, in the Kurdish city of Sardasht in Western Iran. Both men were accused of sodomy. No information is available on their current status. Few lawyers from the district have been contacted; however, none have agreed to engage in conversation about the case.
32. In 2009, IRQO was informed that a Court in Shiraz found Mohsen Ghabraii guilty of sodomy and sentenced him to death. Despite his lawyer's appeal, his death sentence was upheld by the Supreme Court and it will be carried out soon. Mohsen, who at the time of the alleged crime was a minor, has pleaded not guilty and has insisted on his innocence ever since.
33. Nemat Safavi, now 19 years old, was arrested in June 2006 at age 16 for alleged sodomy. According to reports in 2008, the Criminal Court in Ardebil sentenced him to death. Nemat was first sent to a juvenile detention center and was later admitted to the young adult prison facility in Ardebil, waiting for his death sentence to be reviewed by the Supreme Court. According to an investigation performed by the Committee of Human Rights Reporters (CHRR) in November 2009, the Supreme Court overturned Nemat's death sentence on March 4, 2009 and sent the case to another criminal court in Ardebil for retrial. Efforts have been made by Human Rights Reporters (CHRR) to provide Nemat with a defense lawyer to persuade the court of Nemat's innocence. Courts in Ardabil have, however, refused to cooperate with the lawyers who have stepped forward, and provide them with any information as to the status of Nemat's file and his whereabouts.

### *iii. Government Complicity in Honor Killings*

34. Iran's penal system denies sexual minorities the right to life and security of person by providing impunity for acts of murder that are motivated by homophobic "moral" values and concerns over a social group's "honour".
35. Article 313-10 provides that if an offender convicted of murder claims that he committed the murder based on a belief that the deceased was *mahdoorddam* [deserving of death] and it is proven in court that the deceased was indeed *mahdoorddam*, the offender will not face death by *qesas* and will only receive a penalty of imprisonment from 1 to 2 years.<sup>26</sup> *Mahdoorddam* is defined in Article 313-1 as one who has committed a capital crime that carries the penalty of death or stoning under the Penal Code which includes

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<sup>26</sup> Qanun-e Mujazat-e Jadid-e Islami [New Islamic Penal Code] 1388 [ratified 2009], art. 313-10, available at <http://saleh.ruhollah.org/44>.

homosexual conduct.<sup>27</sup>

36. Additionally, Article 313-1 and 313-16 provide that a father who kills his issue shall never face a sentence of death by *qesas* so long as he can prove that the deceased person was indeed his issue.<sup>28</sup>
37. The above provisions, when taken together, create a climate of impunity, giving legal incentives to individuals to commit violence against individuals who transgress hetero-normative sex/gender relations. In small communities living in remote areas, this violence, if committed by close family members, is often met with the silence and approval of the local community as it is believed to restore the community's sense of honour and erase the family's feelings of shame and disgrace.
38. In 2005, Golestan local newspaper in the province of Rasht reported that a man burned his son alive after he discovered that his son was "homosexual", in order to protect the honour of his family. The reports seem to indicate that the father did not face any criminal trial because he had attempted self-immolation after murdering his son, and had suffered injuries to his hands and face as a result of that.<sup>29</sup>
39. In 2007, a 40-year-old man in the city of Orumieh, Azerbaijan was assaulted and murdered. He was known as *giz Naser* [literally girly Naser] in his neighborhood. Three men broke into his house, strangled him with a telephone wire and stabbed him to death. To this date, no information has been released on whether any charges were laid against the perpetrators.<sup>30</sup>
40. In April 2010, a 24-year-old male-to-female transsexual was murdered by two of her brothers. The offenders argued that they choked their sister to death because of her immoral life style. The defendants' father forgave his sons; accordingly, the death sentence was commuted. One defendant received eight years in jail with a five-year suspended prison sentence while another received three years in jail with a two-year suspended prison sentence.<sup>31</sup>
41. No information of a detailed nature is available on the annual number of honour crimes against sexual minorities and how they are handled by the legal system. However, the above accounts show that a general climate of impunity and hate pervades the legal system when it comes to issues relating to sexual minorities and their right to life and

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<sup>27</sup> *Ibid.*, art. 313-1.

<sup>28</sup> *Ibid.*, art. 313-1 and 313-16.

<sup>29</sup> "Silenced Voices," *Iranian Queer Organization* (16 September, 2007), available at <http://www.irqo.net/English/094.htm>.

<sup>30</sup> "New Women in Iran: A Glance of Transgender Life in Iran," *Iranian Queer Organization* (20 May, 2008), available at <http://www.irqo.net/English/142.htm>.

<sup>31</sup> "Men convicted of murdering their sister were sentenced to imprisonment," *Khabar Online* (25 August, 2010), available at <http://www.khabaronline.ir/NEWS-87473.ASPX>.

security of person.

### **III. Dignity Denied: Torture and Inhuman or Degrading Treatment of Sexual Minorities**

#### *i. State Agents*

42. IRQO regularly receives information according to which persons, who are or are perceived to be gay, lesbian or transgender, are subjected to various forms of torture, including of a sexual nature, and are arbitrarily detained with a view to threatening or punishing them.
43. The criminalization of same-sex relations in Iran's Penal Code along with the morality campaigns that the government launches frequently to define and enforce the parameters of gender-appropriate appearance and behavior enables discriminatory, threatening and violent police practices against gay, lesbian and transgender persons both in public spaces and in detention centers. There are many reports of officers targeting gay parties and hang out places, creating fraudulent charges against gay and transgender persons, and blackmailing gays and lesbians who fear public disclosure of their sexual orientation.

#### *Gays*

44. On July 1, 2010, the police raided a party in the Pondouk Neighborhood in Shiraz, arresting seventeen individuals on charges of "Satan worshipping, consumption of alcoholic drinks and homosexuality. The arrestees were physically and psychologically assaulted during the months that they were kept in detention. They were released on September 9, 2010. Homosexuality was not mentioned as a charge in their court documents. In order to be released, they were forced to give their e-mail and messenger IDs and passwords and sign letters that they were not allowed to know the content of. They were also warned that they should not associate with each other from that point on whether in public or in private.<sup>32</sup>
45. In March 2007, the police raided a home party in Esfahan, arresting 78 men. According to eye witness accounts, the police subjected the men to brutal beatings as it was trying to load huge number of them into two or three vans. In detention, the men were subjected to further abuse and beating. IRQO also received information that the arrested men were sent to the State Forensic Office for anal examinations as part of the police's attempt to place sodomy charges against them. Upon release, a large number of these men left Iran due to being subjected to constant abuse and psychological pressure at the hands of the authorities who had their contact information, and they were all granted asylum by the United Nations High Commissioner Office for Refugees in Turkey.<sup>33</sup>

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<sup>32</sup> IRQO Archive.

<sup>33</sup> IRQO Archive.

46. Hamed was one of the gay men arrested at the party. He was a student at the time and lived in Tehran. In prison, he was tortured to confess to his homosexuality but he resisted. As part of his torture, hot metal was placed between his fingers and water was injected underneath his nails. He was also severely beaten by wooden sticks, electric cables and hoses. Nonetheless, he refused to confess to his homosexuality to protect his parents from shame.<sup>34</sup>
47. In March 2008, the police raided another home party in Esfahan, arresting 30 men on charges of “alcohol consumption, homosexual relations, and involvement in other immoral activities.” As with the last year’s raid, the men were severely beaten by the police both during the arrest and in detention. Flogging the palm of the hands was one of the painful torture methods used against the arrestees. IRQO was informed of the abuse by the arrestees’ friends who had witnessed scars on their friend’s bodies after their release. A large number of these men fled Iran to escape the abuse and harassment that followed their release.<sup>35</sup>
48. In an interview with IRQO, Mateen, a young gay man, recounted his 2008 arrest in the city of Najaf Abad, province of Esfahan, on charges of *lavat* and sexual assault. In prison, he was tortured to confess to these crimes that he had not committed. He was repeatedly raped by plain clothes prison agents in the two months that he was held in detention. Mateen was released after large bail payments and was hospitalized in a mental institution for one month in order to recover from the trauma of his detention experience. Nine months later, as his court date drew near, he left Iran and claimed refugee protection in Turkey.<sup>36</sup>
49. Alireza Naimian, also gay, told IRQO about his arrest by two *basiji* (para-military) agents in the year of 2008. The agents harassed and assaulted him on suspicion of homosexuality. They took him to his house and subjected him to rape and severe beatings. They then took him to a quiet police station and raped and beat him again. On the early hours of dawn, they took him to another police station for detention. The night shift police officer at the station received the statements of the *basiji* agents regarding Alireza’s homosexuality but due to Alireza’s injuries at the hands of the agents, he forced Alireza to confess to his homosexuality himself. Alireza did so owing to fear of further abuse. The officer made a report based on his confession, and his appearances and injuries. At the court, Alireza was cleared of all charges related to *lavat* because there was not a second party involved in the case. He brought a complaint of rape and torture against the two *basiji* agents, and was accordingly referred to the State Forensic Office for an examination. The State Forensic Office concluded, however, that his anal injuries

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<sup>34</sup> IRQO Archive.

<sup>35</sup> “Iran’s Police criticized for invasions of privacy,” *BBC News* (March 2008), available at [http://www.bbc.co.uk/persian/iran/story/2008/03/080328\\_si-iran-noprivacy.shtml](http://www.bbc.co.uk/persian/iran/story/2008/03/080328_si-iran-noprivacy.shtml).

<sup>36</sup> IRQO Archive.

had been caused by haemorrhoids. Accordingly, the court closed the case. The *basiji* agents continued to harass and assault Alireza in his neighborhood, compelling him ultimately to flee Iran. Alireza's case is unique as it is one of the only cases where a complaint has been brought against *basijis* for rape and abuse in a court of Iran.<sup>37</sup>

50. In August 2007, Shiraz Revolutionary Court has sentenced two individuals who were just referred to as "arazel and obash" [hooligans and thieves] to imprisonment and 75 lashes on homosexuality-related charged.<sup>38</sup>
51. In July 2005, the Persian-language daily *Hamshahri* reported that a court in Esfahan has sentenced five young men to 75 lashes and three years of exile to the Southern province of Khuzestan. The sentence was issued following the release of a shady medical report and the men's subsequent admission to having engaged in same-sex conduct on one occasion.<sup>39</sup>

### *Transgender Persons*

52. Among sexual minorities, transgender persons are perhaps the most vulnerable when it comes to the violent morality and gender policing projects of the Iranian government.
53. Iran is a highly gendered society where no aspect of life is free from considerations of sex and gender. The boundary between men and women is drawn firmly, and is deeply embedded in all legal and social structures. Accordingly, Iranians must, at all times, belong to the "right gender" (that is, heterosexual man or woman), and express this belonging through their name, visage, clothes, demeanor, etiquette, talking and their overall "heterosexual look"; individuals who fail to do so such as transgender people are considered to be perverse and criminal, and are, therefore, discriminated against, harassed, persecuted and punished.
54. Sayeh, a male-to-female transgender in her late twenties, told IRQO in an interview:

I have been arrested three times and have been disrespected in the worst ways possible... When they arrest you, some of them want to do things [sexual] with you... They first try to scare and torture you psychologically by calling you a jerk, a dirty pig, a faggot, a carrier of AIDS and a thousand other things; they try to provoke you to do something so that they can form a complaint against you based on that action. Even when you don't do anything, they still take you to

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<sup>37</sup> IRQO Archive.

<sup>38</sup> "Encountering Homophobia," *Abdorrahman Boroumand Foundation* (14 May, 2008) available at <http://www.iranrights.org/farsi/newsletter-4.php>.

<sup>39</sup> *Ibid.*

*Mafased* [the bureau responsible for dealing with moral corruption]. They keep you there for a while. Then, they send you to court... and the judge decides on your fate... As soon as you are taken to court, every officer prepares himself for making fun of you. When they are dealing with our cases, it is as if all the officers go on a break. They deal with murderers and thieves all day long and when they see an “attractive” case they want to have some fun by belittling us... All these miseries pass, and what stays are the scars that they leave on us. These psychological scars slowly transform us into abnormal humans. I frequently just start crying without any reason. I have nightmares and wake up screaming. I’ve become very sensitive toward the people around me.<sup>40</sup>

Sayeh committed suicide in July 2008.

55. Sharareh, another male-to-female transgender, told IRQO of her 2007 arrest for improper veiling and immoral behavior. She was sentenced to flogging. The judge promised her that he would revoke the flogging sentence if she went to his place for the night. Sharareh agreed. That night, the judge and a number of his friends raped Sharareh and then paid her a small amount of money as compensation. However, the judge did not carry through with his promise and the flogging sentence was executed.<sup>41</sup>
56. Shabnam, a non-surgical male-to-female transgender in Tehran, left her house to escape physical abuse and harassment at the hands of her family. She was not able to find a stable job however. In every small workshop that she worked, the workers found out about her gender identity even though she dressed as a man, and made sexual advances on her. She was also regularly harassed by the police and had been told by them that she should not leave her house. In 2008, the police took her to their car, threatened her with a knife, stuck a sharp metal in to her leg and told her that she must stay home. They dropped her off after giving her a severe beating.<sup>42</sup>
57. Peyman, a female-to-male transgender from a city close to Tehran, has a “masculine” look and lots of facial hair. Prior to his operation, he worked as a gym teacher for women. In 2008, after an incomplete sex change operation, his family subjected him to physical assaults and life threats and stopped all financial support. Peyman tried to support himself through taking on graphic design projects; however, because of his sex change, people did not give him work. He moved to different towns many times; however, his identity documents always revealed his gender identity. On few occasions, government officers at

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<sup>40</sup> “Interview with an Iranian Transgender,” *Iranian Queer Organization* (n.d.) available at <http://www.irqo.net/IRQO/English/pages/064.htm>.

<sup>41</sup> IRQO Archive.

<sup>42</sup> IRQO Archive.

entrance security checks noticed that he still had women's body parts. They took him down to a basement, locked him and subjected him to rape and beating.<sup>43</sup>

58. IRQO also interviewed a female-to-male Transsexual who was arrested at the age of fourteen, for making out with a boy in his own parents' backyard. He was reported to the Committee of Islamic Revolution by a neighbour who saw the scene from his own window. He was arrested and kept with male prisoners, was subjected to repeated flogging, and was forced to watch the execution of other inmates. He was told in jail that he too would be executed. He was released a few years later by his parents' pleadings. He was isolated and neglected by family, and mentally abused until he left Iran when there was another occasion for an arrest. He had thought of undergoing sex-change operations but once he witnessed the authorities' humiliating and insulting treatment of transsexual persons, he decided that he would not do the sex change surgery in Iran. This young transsexual man currently lives in Canada. He is, however, suicidal and extremely disturbed, both mentally and emotionally, by the trauma he suffered in Iran. He is in regular contact with the Canadian Center for Victims of Torture (CCVT) and IRQO.
59. Iran's government praises itself for being among the first in the Muslim world that has made transsexuality and sex change legal. Yet, behind this apparently progressive politics of gender recognition lies a disturbing practice of wrong diagnoses and rushed sex change operations that are more about safeguarding heterosexism and gender dimorphism than about protecting the rights of individuals to bodily integrity and freedom of gender expression.<sup>44</sup>
60. After the 1979 revolution, Iran's legal system classified all forms of gender transgressions as cases of sexual and moral perversion, worthy of criminalization. In the immediate post-revolution years, transsexual and transgender individuals were, thus, classed, along with gays and lesbians, as morally bankrupt and sexually perverse, and were consequently subjected to intimidation, persecution, arrest and torture. The situation changed in 1986 when Ayatollah Khomeini issued a fatwa that declared sex change operations are in accordance with Islamic law, provided that they are recommended and condoned by medical professionals. This fatwa led the Iranian government to gradually recognize transgender individuals as "Gender Identity Disorder or Transsexual patients" in need of hormonal and surgical treatments and develop laws and procedures on legal sex change. By 2008 Iran was carrying out more sex change operations than any other nation in the world except for Thailand.<sup>45</sup>

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<sup>43</sup> IRQO Archive.

<sup>44</sup> Raha Bahreini, "From Perversion to Pathology: Discourses and Practices of Gender Policing in the Islamic Republic of Iran," (2008) 5(1) Muslim World Journal of Human Rights.

<sup>45</sup> *Ibid.*, at 19-20.

61. Legalization of sex change operations and recognition of transsexuality have of course brought some level of legal protection, however thin, to transgender individuals who were previously dehumanized and criminalized. However, IRQO cannot but condemn the pathologizing force of this recognition that conceives of transsexuality not as one among many human possibilities of determining one's sex/gender but as a "failing" in normality and as a mental disorder in need of "correction".
62. For the Iranian government, transgender individuals must be either "males to females" or "females to males"; all other surgical and nonsurgical types of gender identification are unintelligible and sinful. Accordingly, transgender persons must decide between two mutually exclusive scenarios: the first involves non-recognition, harassment, persecution and absolute lack of access to education, health, employment opportunities and social entitlements such as holding a valid passport or opening a bank account, while the second involves going under the knife in order to get the minimum entitlements every "normally gendered" individual has such as the right to marry, study, work, travel and live in safety. It must be noted that these rights are not guaranteed even after transsexuals undergo surgery as the date of issue on their birth certificate becomes often the date of their legal sex change, hence making them vulnerable to the disclosure of their gender identity and discrimination.
63. This narrow binary approach is echoed by an ultra-conservative journalist who says in a 2008 documentary exploring the lives of transgender Iranians, *Be Like Others*,

You people bring this on yourselves. When you are still a boy and you haven't yet completed your operation to become a girl, the law, religion and custom does not allow you to dress as a girl. Once you're given the official permit to have the operation, put it in your pocket and when the police stop you, show it and no one will bother you.<sup>46</sup>

She continues,

If you want to continue to dress like a girl but keep your male body, you are not a transsexual anymore; you are a transvestite; you may even be suspected of being a homosexual. So make up your mind. Either you want to be a boy or a girl.<sup>47</sup>

64. Coercing individuals into major surgical operations constitutes a major violation of the rights of transgender people to dignity, bodily integrity and freedom from degrading and coercive medical interventions. Based on its expertise and experience, IRQO believes that if provided with a meaningful choice, many transsexual and transgender Iranians would not opt for surgery due to medical conditions, financial constraints, fear of medical

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<sup>46</sup> Tanaz Eshaghian, *Be Like Others DVD* (Canada, U.S.: Wolfe Video, 2008).

<sup>47</sup> *Ibid.*

complications, religious beliefs, and personal preferences. However, at the moment, by making sex reassignment surgery a prerequisite, Iran's government is, in effect, forcing transsexual and transgender individuals to forgo one basic human right to enjoy another.

*ii. Private Agents including Family Members*

65. LGBT individuals are also subject to cruel, inhuman and degrading treatment within their own families and communities, which goes unreported due to fear of being imprisoned in violation of sodomy laws. The Special Rapporteur on Extra-Judicial, Summary and Arbitrary Executions has stated on numerous occasions that criminalizing sodomy "increases the social stigmatization of members of sexual minorities, which in turn makes them more vulnerable to violence and human rights abuses, including violations of the right to life."<sup>48</sup> Because physical and psychological violence against LGBT individuals is state-sanctioned and there are no laws to protect their rights or bodily safety, LGBT persons try to avoid disclosing their sexual orientation to escape persecution, extortion and severe physical harm.

*Gays*

66. IRQO interviewed a gay man who reported while still a minor, in Esfahan, was arrested and tortured at the age of seventeen on *lavat*-related charges. In prison, he was hanged with his hands tied to a vertical pole and was flogged severely for several hours. He was given an execution sentence but the sentence was revoked after his lawyer paid a huge amount of money. After being released, his father locked him in the house and beat him regularly and severely, not allowing him to meet and socialise. Now at the age of thirty five, this young man suffers from serious damage in the spine, backaches and has difficulty walking as a result of his foot nerves being damaged.<sup>49</sup>

67. IRQO interviewed another young gay man who was arrested for a non-sexual offence. In prison, however, the authorities suspected that he was gay and subjected him to so much psychological pressures and sexual-harassment that he attempted suicide. Once released from prison, he attempted suicide again, this time as a result of the pressures his family put on him. Ultimately, his brother, who had raped him from early childhood through young adulthood, told him, in a threatening way, that if he wanted to be safe, he better live the country, and he handed him a bus ticket to Turkey.<sup>50</sup>

68. The story of Hadi from the Lorestan region is another tragic account that has been followed up by IRQO during the past years. Hadi was subjected to constant abuse and beating at the hands of his father, and this abusive family situation finally compelled him

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<sup>48</sup> United Nations Economic and Social Council, Report of the Special Rapporteur on Extra-Judicial, Summary and Arbitrary Executions, E/CN.4/2001/9 (2001), para. 50.

<sup>49</sup> IRQO Archive.

<sup>50</sup> IRQO Archive.

to flee Iran in 2010 along with his partner. Hadi and his partner claimed refugee protection at the United Nations High Commissioner Office for Refugees (UNHCR) in Turkey and waited to be settled in a safe third country. While living Turkey, Hadi's father came for a visit. He threatened to kill Hadi and his partner if he did not return to Iran with them. After a lot of threats and psychological pressures, Hadi finally agreed to return to Iran with his father. Once Hadi left, his partner became extremely anxious and worried for Hadi and his safety given the traditional and conservative nature of people in Lorestan. Few hours prior to his departure from Turkey, IRQO contacted him by phone and he said, "I am tired of life. I don't care what happens to me in Iran. Just take care of my partner as he is the only family I have in this world. IRQO informed the UNHCR of the situation; however, Hadi's departure could not be legally stopped as it appeared that he was returning to Iran out of his own will. Once in Iran, his family arranged his marriage to a female relative and took him to the marriage office. In the marriage office, Hadi took advantage of his guardian's lack of attention and escaped. He immediately contacted a friend and borrowed cash enough for a train ticket to Turkey. Once in Turkey, Hadi and his partner cut all their relationships with home; changed their location of residence with the support of UNHCR; and ultimately got settled in safe country."<sup>51</sup>

69. Hamid is another Iranian gay who has suffered cruel treatment at the hands of his family. In 2009, his older brother, his guardian since their father's death, and a member of Basiji forces, caught him with some other boys in one of Tehran's gay hang out places. When Hamid returned home, his brother beat him severely, locked him in the house and told him that he will go to bring a knife to kill him. With his cell phone, Hamid called the police for help. The police came to the scene immediately; however, Hamid's brother told the police that there is no problem and he only wanted to punish his brother. He then returned to the room and threatened Hamid that he will finish him off some other time. At this point, Hamid's mother entered the house. That night, Hamid left the house and within a week, he fled to Turkey.<sup>52</sup>

#### *Lesbian and Bisexual Women*

70. Abuse and inhuman treatment by family members poses particularly serious threats to lesbian and bisexual women. Patriarchal family and societal relations impose heterosexuality upon women by means of forced marriages, marital rape, wife beating, and discriminatory laws that deny women the right to divorce and give men sole custody rights. IRQO regularly receives information about lesbian and bisexual women whose families have either deserted them or pressured them to marry upon discovering that they are attracted to women. If married, these women live in fear of being blackmailed and abused by their husbands upon disclosure of their sexual orientation. The discriminatory nature of Iran's Constitutional and family law provisions and the disadvantaged status of women in general, have damaging effects on the situation of lesbian women. Women do

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<sup>51</sup> IRQO Archive.

<sup>52</sup> IRQO Archive.

not have the right to enrol in higher institutions of learning, travel, work and rent lodging without the permission of their male kin or husband, which means lesbians cannot even try to live independently and provide for themselves.

71. Shirin and Mina lived together in Tehran. Shirin was a student and Mina worked for a company. A neighbour discovered that Shirin and Mina had an intimate relationship with each other and spread the news in the neighbourhood. The news reached one of Mina's colleagues and resulted in her dismissal. Shirin and Mina moved out and went to live at the house of Shirin's father. They told Shirin's parents that they were close friends. Despite being extremely cautious, Shirin's father suspected their relationships and threatened to hand them over to the police himself. Shirin and her father got into a fight in which her father beat her severely. Following the fight, Shirin's father left the house. At this point, Shirin's mother assisted her daughter and Mina with leaving the house and later getting an airplane ticket to Europe. Shirin and Mina left Iran and sought refugee protection in a European country.<sup>53</sup>
72. Maryam, a lesbian woman from the northern province of Mazandaran, was violently forced by her family to get married. She was beaten severely and locked in a room until she complied. She was repeatedly raped by her husband, which resulted in serious injuries to her reproductive system and back. After a while, she was able to obtain a divorce from her husband based on a report provided by her gynaecological doctor. After her divorce, Maryam's family found out about her lesbian relationships. One of the members of her family worked for the *Basij* and hence threatened to give her and her friends over to the police. Maryam took the threat seriously and fled Iran in 2008.<sup>54</sup>
73. Shadi is another lesbian woman who has experienced violence at the hands of both her family and her ex-husband. Her family held her in a room and forced her to accept marriage with a man they knew. They threatened not to pay for her education if she did not accept. They thought they could "fix" her. When she had sex with her husband, Shadi became extremely depressed. After a while she refused to have sex with her husband. It reached a point where she would rather die than have sex with him. After a while she met her girlfriend Darya on the internet and her life became more enjoyable. However, her husband gradually grew suspicious and hacked into her computer without her knowledge. He read all their emails and recorded their phone conversations. He then threatened to tell her family and the police if she did not pay him off. Shirin and Darya were living in constant fear. It went on like this for a while until Shirin confessed to her family. She told them that they can do whatever they want with her or even kill her but that she could not go on like this anymore. They were eventually supportive and she was able to get a divorce after paying her husband a lot of money and giving him alimony. She moved in

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<sup>53</sup> IRQO Archive.

<sup>54</sup> IRQO Archive.

with Darya but the ex-husband continued to terrorize them. He constantly threatened to go to the police with the documents that he had against them. He threatened to kill Darya. They paid him a large amount of money and he went away for a while, but he came back again. Ultimately, the threat and abuse got to the that Shirin and Darya decided to flee to Turkey.<sup>55</sup>

74. Mina, from Mashad is another young lesbian woman who ran away from home in order to escape parental violence to force her to marry a suitor. She spent two years in the streets and slept in parks without any luck to find employment. She went back home after she could not endure life in the streets, and agreed to marry any suitor. Mina reports that in small towns, many lesbian women have no way of supporting themselves beside marriage, which means suffering from regular rape and humiliation.<sup>56</sup>

#### **IV. Expression Denied: Surveillance and Silencing of Sexual Minorities**

75. Freedom of expression is of critical importance to sexual minorities' self-development and self-esteem. As Tom Lavell, the delegate of the International Gay and Lesbian Association to the CSCE Human Dimension Seminar on Free Media in Warsaw notes, "ready access in newsstands to lesbian or gay oriented magazines can provide homosexual people with the information they need to break out of isolation and live fulfilled lives with self-respect."<sup>57</sup> There is no such thing as ready access for Iran's sexual minorities however.

##### *Freedom of the Press*

76. Article 24 of the Iranian Constitution provides, "publications and the press have freedom of expression except when it is detrimental to the fundamental principles of Islam or the rights of the public."<sup>58</sup> Article 6 of the Press Law, which applies to "all publications published regularly and under a permanent name," provides that the media may publish "news items except in cases when they violate Islamic principles and codes and public rights."<sup>59</sup> In light of these articles, the Ministry of Culture and Islamic Guidance (MCIG), which exerts control over the enforcement of press laws, the issuing and revoking of publication licenses, and the content of cultural materials including news reports, books,

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<sup>55</sup> IRQO Archive.

<sup>56</sup> IRQO Archive.

<sup>57</sup> James D. Willets, "International Human Rights Law and Sexual Orientation" (1994-1995) 18 *Hastings Int'l & Comp. L. Rev* 1 at 73.

<sup>58</sup> Qanun-i Assasiyih Jumhuriyih Iran [Constitution of the Islamic Republic of Iran] 1358 [adopted 1979, amended 1989] art. 24.

<sup>59</sup> Qanun-e Matbu'at [Press Law] 1364 [ratified 1986, amended 2000], art. 6.

movies and art works, prohibits virtually all materials that portray homosexuality in a positive light.

77. In order to publish, publishers must first obtain a licence from the MCIG. Article 9 of the Press Law provides that to be eligible, the publisher must be, among other things, "free of moral corruption" and "supportive of the Constitution."<sup>60</sup> Gay and lesbian oriented publishers are not, therefore, allowed to operate openly as they are considered corrupt and morally bankrupt.
78. Article 12 of the Press Law authorizes the creation of a Press Advisory Board (PSB), consisting of "devoted Muslims who possess the expertise, moral competence and commitment to the Islamic Republic."<sup>61</sup> The PSB has the power to examine press violations and shut down papers and magazines.
79. In August 2007, the PSB ordered the closure of the moderate daily *Shargh* for publishing a full-page interview entitled "Feminine Language" with Saghi Ghahraman, an expatriate poet and the Director of Iranian Queer Organization.<sup>62</sup> The interview made no explicit reference to homosexuality but Saghi Ghahraman said in the interview that "sexual boundaries must be flexible ... The immoral is imposed by culture on the body."<sup>63</sup> In response to the interview, the hard-line daily *Kayhan* wrote that Ghahraman was a "counter-revolutionary fugitive" and the head "of a homosexual organization" and "*Shargh* had interviewed this homosexual woman while being aware of her sexual perversion, her dissident views and her obscene porno-style personality."<sup>64</sup>

#### *Migration of Expression to the Internet*

80. Iran's Internet networks emerged in 1993. Demands for computers and access to the Internet grew rapidly, and by 2003, Iran had close to 5000 Internet hosts. This growth, the most explosive in the Middle East, resulted in a 29000% increase in Internet use between 2000 and 2005.<sup>65</sup>
81. The growth of the Internet had a major impact on Iran's sexual minorities by enabling them to come out of isolation, form a community, and exchange information. Gay,

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<sup>60</sup> *Ibid.*, art. 9.

<sup>61</sup> *Ibid.*, art.12.

<sup>62</sup> "Iran shuts down leading reformist newspaper," *CanWest News Service* (6 August, 2007), available at <http://www.canada.com/windsorstar/news/story.html?id=11bccbe7-4274-40e9-8f15-45df4476f0f3>.

<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid.*

<sup>65</sup> Iran Human Rights Documentation Center, *Ctrl+Alt+Delete: Iran's Response to the Internet* (New Haven, 2009) at 3-4.

lesbian, bisexual and transgender Iranians living in urban centres quickly began to use this fairly accessible means of communication. Consequently, a complex online communications network was created, consisting of websites dedicated to discussing sexual orientation and gender identity issues, personal and political blogs, monthly journals, online dating websites, and gay and lesbian chat rooms.

82. These developments did not go unnoticed by the government which began to see the Internet's growing popularity and influence as a threat. The government responded to the rise of the Internet by filtering, blocking, censoring content, and developing Internet-specific laws and multiple regulatory bodies in order to dominate and alter the Web that Iranians access.

*i. The Cyber Crime Penal Code*

83. In 2009, Iran's Parliament passed a Cyber Crimes Penal Code, prepared and drafted by the Committee for Combating Cyber Crimes which had been established by the head of the judiciary in early 2002 for the purpose of proposing a draft cyber penal code.<sup>66</sup> Most of the Code's provisions concern issues such as information security; however, there are several important articles in Chapter Four of the Code that directly affect sexual minorities' freedom of expression on the internet. This Chapter defines "crimes against public decency and morality."

84. Article 14 outlaws the production, transmission and publication of "obscene" content with penalties of imprisonment from 91 days to two years, a fine no more than 40 million Rials or both.<sup>67</sup> "Obscene" content is defined in subsection 4 of this article as "material that is sexual in nature and portrays naked bodies of men and women engaging in sexual intercourse."<sup>68</sup> Subsection 3 of the article provides that "the offenders who do the activities outlined in this article as their profession and/or commit them in a systematic manner will be sentenced to the maximum punishment possible if not convicted of being *mofsed-fel-arz* [one who spreads corruption on earth]" which carries the death penalty with it.<sup>69</sup> Article 15 criminalizes the commission of crimes against decency and other illegal or violent activities, and the incitement and education of others to commit such crimes.<sup>70</sup>

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<sup>66</sup> Qanun-e Jarayem-e Rayaneh'ee [Cyber Crimes Penal Code] 1388 [ratified 2009] available at <http://www.medianews.ir/fa/2009/01/05/majlis8.html>.

<sup>67</sup> *Ibid.*, art. 14.

<sup>68</sup> *Ibid.*

<sup>69</sup> *Ibid.*

<sup>70</sup> *Ibid.*, art. 15.

85. An important case of persecution and arrest under these laws was with respect to the website of Avizoon whose operators were all arrested and convicted on charges of “pornography and publishing sexual ideas including homosexuality” and were sentenced to imprisonment and execution. In this relation, Solouki, a member of the office of the Islamic Revolutionary Guards for combating cyber crimes, said in an interview with the official IRNA News Agency, “those who carry out cultural operations against the sacred culture and regime of the Islamic Republic should not proceed under the assumption that Iran’s cyber space is vulnerable and out of control.” By securitizing the sphere of online activities and employing military phrases such as “operation” and “combat”, the government aims to instil fear and self-censorship amongst activists and bloggers, and control and dominate the Internet accessed by them.

*ii. The Use of Technical Methods to Control and Alter the Web*

86. Iran’s government uses a variety of technical methods to maintain control and dominance over expression in the online sphere. These methods include shutting down websites at their sources, blocking access to specific websites and filtering out large parts of the Web.

87. Since 2009, close to 200 weblogs that rely on blogfa, one of the most important Persian weblog services in Iran, have been shut down, and the following message appears when one tries to access them: “This blog has been shut down according to the order of an official working group charged with filtering unlawful content.”<sup>71</sup>

88. Blogs that rely on blogspot and wordpress and other non-domestic weblog services such as khanehonar, pesar, hamjensgara, Iranian queer library, Iranian national queer day, LGBT websites such as the one belonging to the Iranian Queer Organization, and popular dating sites such as manjam are all filtered by the Telecommunication Company of Iran, and according to the warnings issued by the cyber crimes office of the Islamic Revolutionary Guards, affiliation with these websites is criminal and carries serious penalties.

89. Recently, a leading LGBT weblog has received a number of threatening comments from Gerdab, the investigative arm of the cyber crimes office of the Islamic Revolutionary Guards. The comments read as follows:

Iran’s cyber army is ready to identify and wipe out corrupt and destructive social groups. Everyone who works behind this weblog has been identified.

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<sup>71</sup> See Appendix A.

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. They are from the provinces of Kerman and Tehran in Iran, and Toronto, Ontario in Canada.<sup>72</sup>

90. In 2011, a gay blogger received a formal letter from Colonel Mehrdad Omid, the chief officer of the Law Enforcement Force of Iran (NAJA) for combating cyber crimes, which threatened him with arrest and persecution if he continued his blog activities. The letter made multiple references to the duties of the police to monitor and restrict activities that raise moral concerns. It noted, “till now, the police has managed to create a moral environment where cyber offenders can no longer feel secure in committing crimes and we are working on restricting them even further.”<sup>73</sup>
91. Bloggers often shut down their blogs in an act of self-censorship when they receive threatening comments or a news announcement regarding the investigation of cyber crimes. This is the case even when the blog contains no pornographic photo or material. When noticing visits to their blogs by unknown IPs, bloggers who post materials on raising awareness on LGBT issues and essays on queer theory, stop uploading and never go back to the blog, as their crime is heavier than others.

**iii. Surveillance of Visitors to LGBT oriented Chat Rooms**

92. Surveillance of chat rooms and websites visited by sexual minorities and employing internet entrapment techniques are among the other methods used by the government to deprive sexual minorities of access to information and freedom of expression and assembly in the online sphere.
93. In 2010, Soroush, a 27 year old gay man and a frequent visitor to a gay-oriented chat room, informed IRQO of the threats he received from a user with the ID name of “Sepah” who warned him that he was acting in violation of Iran’s cyber laws and could face prosecution.<sup>74</sup>
94. Such threats are not uncommon. They could be issued as a formal warning from a recognizable government office or they could come from ultra-conservative forces and groups who take the enforcement of the law into their own hands, hence insulting and harassing LGBT users of the Internet.
95. In 2010, Rahman, a gay man from Kerman, informed IRQO of the formation of an investigative group by the *Basij* in Kerman, charged with identifying active homosexual

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<sup>72</sup> See Appendix B.

<sup>73</sup> IRQO Archive.

<sup>74</sup> IRQO Archive.

circles and entrapping their members through arranging meetings with them. As part of this project, the police arrested a transsexual person in Kerman and threatened to deprive him of the medical and legal entitlements necessary for sex change if he did not introduce the city's homosexuals to them. This incident led to the arrest and prosecution of a number of gay men in Kerman.<sup>75</sup>

96. Reports of other internet entrapment incidents in large cities such Tehran, Esfahan, Shiraz and Kerman have been documented by Human Rights Watch.<sup>76</sup> These accounts together show the maze of technical, legal and penal obstacles through which sexual minorities must navigate in order to express themselves and be heard by other members of their community.

### **Humanity Denied: Concluding Remarks**

97. "In Iran we do not have homosexuals" but an oppressed group of individuals whose humanness is not recognized by the government because they fail to respect heterosexual norms. They are gender outlaws subject to discrimination, harassment, torture, and state-sanctioned murder. As discussed in this report, this violence is widespread in its scope and horrific in its consequences. This situation must be of great concern to all those who have committed themselves to the project of human rights. The rights of LGBT persons to life, dignity, bodily integrity and freedom of expression flow from the most vital of human rights; to dismiss this reality is to apply human rights inconsistently, to deny certain humans access to humanity.
98. On this basis, IRQO calls for the abolition of all laws under the Islamic Penal Code that criminalize consensual same-sex conduct, and the rescindment of all convictions and sentences related to punishment of individuals who have engaged in consensual same-sex conduct. It further requests the government of Iran to put an end to the harassment, arrest, detention, prosecution and conviction of sexual minorities based on provisions of the Islamic Penal Code, Press Law, and Cybercrimes Law that prohibit the production, use, and dissemination of LGBT-oriented, and prohibit and investigate the public harassment, abuse and murder of sexual minorities by state or private forces. In reaching these reforms, IRQO urges human rights defenders, members of the United Nations Human Rights Council, and above all the Special Rapporteur on the Human Rights Situation in Iran to highlight Iran's repression of LGBT persons and utilize our report in pressuring the government of Iran to recognize and respect the basic rights of Iran's LGBT persons to life, dignity, bodily integrity and freedom of expression.

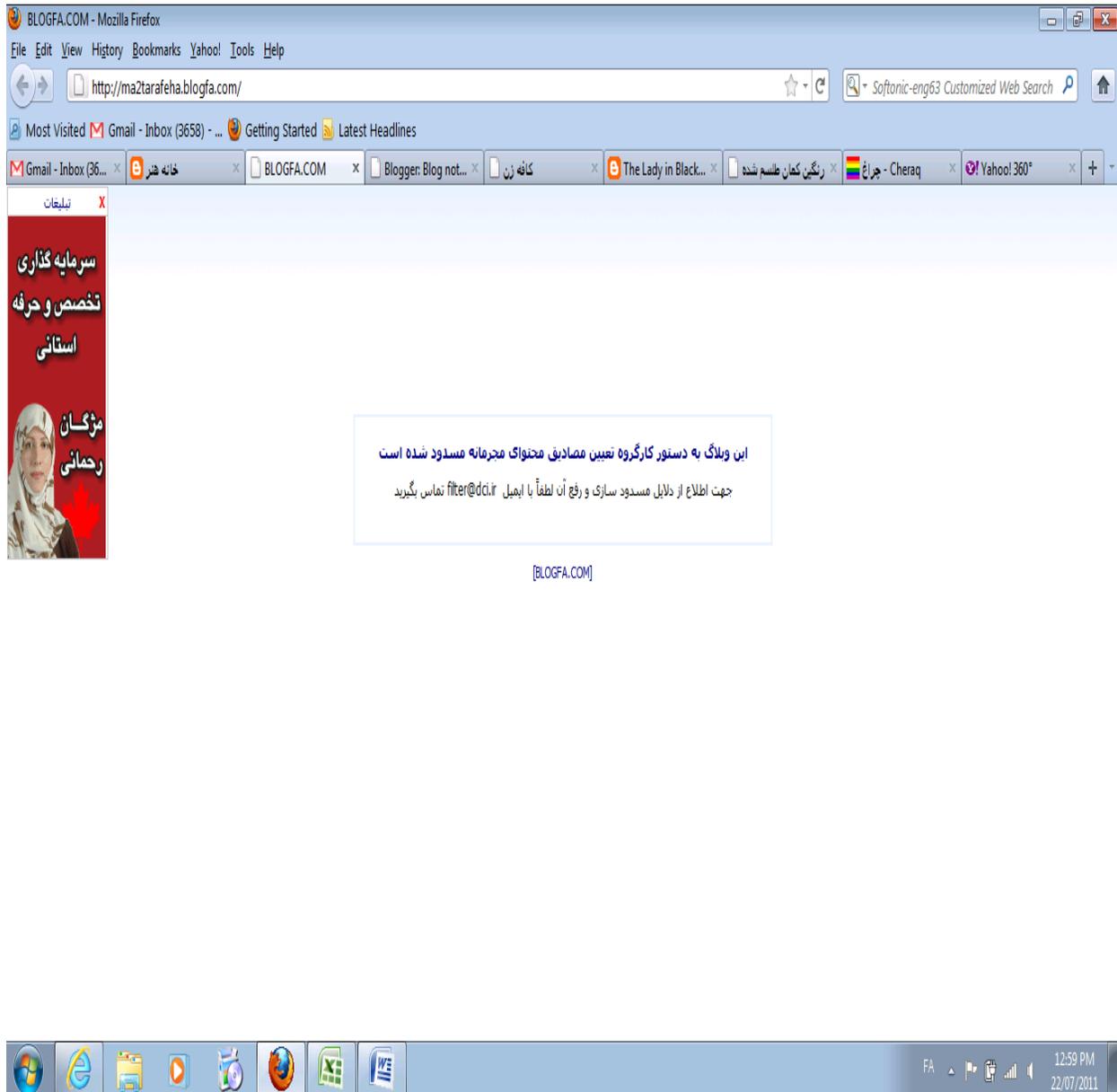
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<sup>75</sup> IRQO Archive.

<sup>76</sup> Human Rights Watch, *We are a Buried Generation: Discrimination and Violence against Sexual Minorities in Iran* (15 December, 2010) available at <http://www.hrw.org/reports/2010/12/15/we-are-buried-generation>.



# Appendix A



## Appendix B

### در انتظار نظارت

X

ما شناسایی خردکار هرزنامه برای نظرات را در برخی وبلاگ‌ها فعل کرده ایم. شما باید گاهی نظرات موجود در صندوق دریافت هرزنامه خود را بررسی کنید. اطلاعات بیشتری درباره شناسایی هرزنامه Blogger کسب کنید یا مشکلات را گزارش دهید.

The screenshot shows a Blogger blog post with a comment moderation interface. At the top right, there are buttons for 'انتخاب کنید همه' (Select all), 'پست‌ها' (Posts), 'هرزنامه' (Spam), and 'تغییر' (Change). On the left, there is a '3 از 3' (3 of 3) indicator. The main content area shows a comment from 'www.gerdab.ir' with a status of 'منتظر تایید' (Pending approval) and a date of '8/22/10'. Below the comment, there is a checkbox for 'این نظر را تایید کنید' (Approve this comment) and a text area for 'این نظر را چگونه می‌کنید؟' (How do you want to handle this comment?). The text area contains the following text: 'ارتش سایبری جمهوری اسلامی ایران کلیه افرادی را که اقدام به بر روی وبلاگها و سایتهایی با محتوی غیر اخلاقی می کند شناسایی کرده. افراد فوق از استثنای کرمان تهران و نورتوی کانادا می باشند بزودی کلیه افراد شناسایی و تحت پیگرد قرار خواهند گرفت.' Below the text area, there is a 'www.gerdab.ir' link and a date of '8/22/10'.