



COUNTRY OF ORIGIN INFORMATION BULLETIN

# IRAN

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LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS

21 APRIL 2008

# Contents

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	Paragraphs
PREFACE .....	i
LEGISLATIVE POSITION AND PENALTIES .....	1
ENFORCEMENT OF THE LAWS AND EXECUTIONS.....	8
Social Protection Division .....	32
GOVERNMENT ATTITUDES .....	41
SOCIETAL ATTITUDES .....	45
TRANSGENDER AND TRANSSEXUALS.....	48
FOREIGN AND COMMONWEALTH OFFICE POSITION.....	52
SOURCES	

## Preface

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- i This Country of Origin Information Bulletin (COI Bulletin) has been produced by the Country of Origin Service (COIS), UK Border Agency (UKBA). It is intended to provide further information on the situation for homosexuals in Iran.
- ii The Bulletin was prepared for background purposes for UKBA officials involved in the asylum/human rights determination process. It has been compiled from information obtained from a wide variety of recognised sources, which are referenced throughout. It does not contain any UKBA opinion or policy.
- iii The Bulletin is not intended to be a comprehensive survey. For a more detailed account, the relevant source documents should be examined directly. The Bulletin should be read in conjunction with the existing COI Report on Iran.
- iv The Bulletin and the accompanying source material are publicly disclosable. Where sources identified in the COI Bulletin are available in electronic form the relevant link has been included.

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## ADVISORY PANEL ON COUNTRY INFORMATION

- v The independent Advisory Panel on Country Information (APCI) was established in 2003 to make recommendations to the Home Secretary about the content of the UKBA's country of origin information material. The APCI welcomes all feedback on the UKBA's COI Reports, Key Documents and other country of origin information material. Information about the Panel's work can be found on its website at [www.apci.org.uk](http://www.apci.org.uk)
- vi In the course of its work, the APCI reviews the content of selected UKBA COI documents and makes recommendations specific to those documents and of a more general nature. The APCI may or may not have reviewed this particular document. At the following link is a list of the COI Reports and other documents which have, to date, been reviewed by the APCI: [www.apci.org.uk/reviewed-documents.html](http://www.apci.org.uk/reviewed-documents.html)
- vii Please note: It is not the function of the APCI to endorse any UKBA material or procedures. Some of the material examined by the Panel relates to countries designated or proposed for designation for the Non-Suspensive Appeals (NSA) list. In such cases, the Panel's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself.

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**Return to contents**  
**Go to list of sources**

## Legislative Position and Penalties

1. The State Homophobia April 2007 report from the International Lesbian and Gay Association (ILGA) lists articles from the Iranian Penal Code of 1991 that pertain to homosexual acts, how they are defined and proven and their corresponding penalties:

“Part 2: Punishment for Sodomy

“Chapter 1: Definition of Sodomy

“Article 108: Sodomy is sexual intercourse with a male.

Article 109: In case of sodomy both the active and the passive persons will be condemned to its punishment.

Article 110: Punishment for sodomy is killing; the Sharia judge decides on how to carry out the killing.

Article 111: Sodomy involves killing if both the active and passive persons are mature, of sound mind and have free will.

Article 112: If a mature man of sound mind commits sexual intercourse with an immature person, the doer will be killed and the passive one will be subject to Ta’azir of 74 lashes if not under duress.

Article 113: If an immature person commits sexual intercourse with another immature person, both of them will be subject to Ta’azir of 74 lashes unless one of them was under duress.

“Chapter 2: Ways of proving sodomy in court

“Article 114: By confessing four lashes to having committed sodomy, punishment is established against the one making the confession.

Article 115: A confession made less than four lashes (to having committed sodomy) does not involve punishment of ‘Had’ but the confessor will be subject to Ta’azir (lesser punishments).

Article 116: A confession is valid only if the confessor is mature, of sound mind, has will and intention.

Article 117: Sodomy is proved by the testimony of four righteous men who might have observed it.

Article 118: If less than four righteous men testify, sodomy is not proved and the witnesses shall be condemned to punishment for Qazf (malicious accusation).

Article 119: Testimony of women alone or together with a man does not prove sodomy.

Article 120: The Sharia judge may act according to his own knowledge which is derived through customary methods.

Article 121: Punishment for Tafhiz (the rubbing of the thighs or buttocks) and the like committed by two men without entry, shall be hundred lashes for each of them.

Article 122: If Tafhiz and the like are repeated three lashes without entry and punishment is enforced after each time, the punishment for the fourth time would be death.

Article 123: If two men not related by blood stand naked under one cover without any necessity, both of them will be subject to Ta’azir of up to 99 lashes.

Article 124: If someone kisses another with lust, he will be subject to Ta’azir of 60 lashes.

Article 125: If the one committing Tafhiz and the like or a homosexual man, repents before the giving of testimony by the witnesses, his punishment will be quashed; if he repents after the giving of testimony, the punishment will not be quashed.

Article 126: If sodomy or Tafhizis proved by confession and thereafter he repents the Sharia judge may request the leader (Valie Amr) to pardon him.

#### “Part 3: Lesbianism

“Article 127: Mosaheqeh (lesbianism) is homosexuality of women by genitals.

Article 128: The ways of proving lesbianism in court are the same by which the homosexuality (of men) is proved.

Article 129: Punishment for lesbianism is hundred (100) lashes for each party.

Article 130: Punishment for lesbianism will be established vis-a-vis someone who is mature, of sound mind, has free will and intention. Note: In the punishment for lesbianism there will be no distinction between the doer and the subject as well as a Muslim or non-Muslim.

Article 131: If the act of lesbianism is repeated three lashes and punishment is enforced each time, death sentence will be issued the fourth time.

Article 132: If a lesbian repents before the giving of testimony by the witnesses, the punishment will be quashed; if she does so after the giving of testimony, the punishment will not be quashed.

Article 133: If the act of lesbianism is proved by the confession of the doer and she repents accordingly, the Sharia judge may request the leader (Valie Amr) to pardon her.

Article 134: If two women not related by consanguinity stand naked under one cover without necessity, they will be punished to less than hundred (100) lashes (Ta’azir). In case of its repetition as well as the repetition of punishment, hundred (100) lashes will be hit the third time.” [17]

2. The United Nations High Commissioner for Refugees (UNHCR) / Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD) Berlin COI Information Seminar Report 2001 concurs, albeit with a slightly differing translation of the Penal Code:

“From a legal point of view it is important to take a look at Iranian law particularly the Islamic Punishment Act, which carries the following provisions for homosexual acts:

“Art. 110: The prescribed punishment for homosexual relations in case of intercourse is execution and the mode of the execution is at the discretion of the religious judge.

“Art. 111: Homosexual intercourse leads to execution provided that both the active and passive party are of age, sane and consenting.

“Art. 112: Where a person of age commits homosexual intercourse with an adolescent, the active party shall be executed and the passive party, if he has not been reluctant, shall receive a flogging of up to 74 lashes.

“Art. 113: Where an adolescent commits homosexual intercourse with another adolescent, they shall receive a flogging of up to 74 strokes of the whip unless one of them has been reluctant.

“Art. 114 to 126 establish how to prove homosexual intercourse.

“Art. 127 to 134 relate to lesbian sexual relations. Punishment for sexual intercourse among lesbians is 100 lashes. If the offence is then repeated 3 times the punishment is execution.” [2] (p105)

3. A report by the Netherlands Ministry of Foreign Affairs in December 1998 stated that according to the Ta’azirat (Iranian Penal Code) of November 1983 (valid to June 1996), sentences of imprisonment for between one and ten years and up to 74 lashes are possible for homosexual activities. The death penalty may also be incurred if the act is deemed to be an ‘Act against God and corruption on earth.’ Since June 1996 the revised Ta’azirat omits direct threat of lashes or the death penalty. The penalties of lashing and of death are, however, still judicial options, even though they are not mentioned within the revised Ta’azirat. Reports suggest that since 1996 they have rarely been used. [9] (p18)
4. The Berlin COI Information Seminar Report 2001 states that:

“The burden of proof is quite high and it would be difficult to prove homosexual liaisons or intercourse. According to some reports in local papers there have been instances of execution of homosexuals. It is not confirmed whether the homosexual act alone led to execution or whether the person was accused on other charges too. However, the fact that, irrespective of the standard/burden of proof, the sentence for homosexuality is death is a very important element in any assessment. It would be inappropriate to water down the existence of the death sentence with arguments of a high burden of proof, relative tolerance or the fact that there is no systematic effort to prosecute homosexuals. The subjective element is essential.” [2] (p105-106)
5. The Danish Immigration Service report from their 2005 fact-finding mission states that:

“Under the penal code, homosexuality between men is a serious crime and, if there is the necessary evidence or confessions, it can incur the death penalty. According to §114, the necessary proof is confessions to the judge or the testimony of four men. §120 also prescribes ‘...That the judge can make a decision in accordance with his own knowledge that is based on general knowledge and judgement.’ ...

“Two female defence lawyers with many years’ experience of court cases in Teheran reported that if the judge had detailed knowledge of the homosexuality, this knowledge could be sufficient testimony to pass judgement. ...

“UNHCR in Ankara reported that the judge’s knowledge of the circumstances of the case in cases of homosexuality could be sufficient evidence.” [15] (p10)
6. Articles 125-126 of the 1996 Ta’azirat (Iranian Penal Code) outline the circumstances under which an individual, by repenting, may have the prescribed punishment quashed or have clemency recommended by the judge. [6]

7. According to information from the Canadian Immigration and Refugee Board (CIRB), dated 1 February 1998<sup>1</sup>, technically, homosexual behaviour is sharply condemned by Islam, and the Islamic Sharia law adopted by Iran. Sodomy is punishable by death if both parties are considered to be adults of sound mind and free will. [1b] It must be proven by either four confessions from the accused, the testimony of four righteous men who witnessed the act [1b] [7a] or through the knowledge of a Sharia judge “derived through customary methods”. [1a] (p15)

**[Return to contents](#)**  
**[Go to list of sources](#)**

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<sup>1</sup> Some sources used in this bulletin date back several years but have been included because of the general paucity of information on the issues covered and because they have not been contradicted by any more recent material.

## Enforcement of the Laws and Executions

8. The Foreign and Commonwealth Office's (FCO) Human Rights Report for 2007 states that the death penalty remains on the statute books for consenting same-sex relations although the FCO have not confirmed any executions for this in 2006 and 2007 but continue to monitor the issue carefully. [11a] (p155)

In a letter dated 15 April 2008, FCO stated that:

"We are not aware of any individual who has been executed in Iran in recent years solely on the grounds of homosexuality. A recent press release from Human Rights Watch (dated 28 March) suggested that the last documented death sentences for consensual homosexual conduct in Iran were handed down in March 2005, but that it was not known whether they were carried out. We have not been able to confirm these cases. We are aware of concerns that homosexuals may have been charged with crimes such as rape and kidnap and then executed, but again cannot confirm that this has happened.

"Although Iran does not publish official execution figures, the impression from our Embassy is that the authorities are usually prepared to announce or confirm executions that have taken place, even for cases that are likely to attract international criticism. However, it is possible that this may have happened and gone unreported, especially in provincial areas." [11b]

9. The Human Rights Watch report titled 'Private Homes Raided for Immorality', dated 28 March 2008, states that:

"The last documented death sentences for consensual homosexual conduct in Iran were handed down in March 2005. It is not known whether they were carried out. In extensive interviews with men and women inside and outside Iran, Human Rights Watch has documented widespread patterns of arbitrary arrest and torture based on sexual orientation and gender identity.

"Western sources have suggested that charges of consensual homosexual conduct are converted to charges of rape in the Iranian judicial system, but Human Rights Watch has found no evidence of this." [4a]

10. An article on Radio Free Europe/Radio Liberty (RFE/RL) titled 'Persian Gay and Lesbian Activist Urges Tolerance', dated 17 May 2007 reports:

"Under Islamic laws as applied in Iran, homosexuality is punishable by death. But in recent years, there have been only a few reported cases of individuals being officially charged with homosexuality.

"Yet Parsi [Arsham Parsi, Secretary-General of the Toronto-based Iranian Queer Organisation] says the spectre of the harsh sentences casts a shadow on the life of homosexuals." [12c]

Parsi continued:

"... in the case of homosexuals, even if nothing happens, they always face fear. Many believe that the punishments for homosexuals are only on the books and

they are not being applied. But we don't accept this - we think homosexuals are being sentenced, but perhaps [these cases] don't get reported." [12c]

11. A letter from HRW to Minister Verdonk, the Dutch Minister of Alien Affairs and Integration, Ministry of Justice, titled 'No Deportations of LGBT Iranians to Torture' and dated 5 October 2006 stated:

"Trials on morals charges in Iran are held in camera, and international outrage over the frequency of executions (Iran has the highest rate of executions per capita in the world) has led the government to exercise tight controls over press reporting of the death penalty. For these reasons, confirming the frequency of executions for lavat [sexual acts between men] is effectively impossible." [4e]

12. A number of sources, including the BBC in an article titled 'Gay Iranian deportation reviewed' dated 13 March 2008 and some gay rights groups, have reported that more than 4000 gay men and lesbians have been executed in the country since the Ayatollahs seized power in 1979. However, no original source for this information has been identified. [10c]

13. Regarding the claim that 4,000 Iranian homosexuals have been executed since 1979, the April 2008 FCO letter states:

"It is believed that vast numbers of people (possibly tens of thousands) were executed in the 1980s for a range of political and moral 'crimes' often with little or no respect for due process of law. This is likely to have included executions for controversial offences such as homosexuality and apostasy. We are not able to put a figure on how many individuals might have been executed specifically for homosexuality, but documentary evidence and our Embassy's discussions with human rights campaigners and members of the Iranian gay community suggest that such executions would have been carried out in the first 10-15 years after the 1979 revolution. We are not aware of executions solely on the grounds of homosexuality in recent years." [11b]

14. On this issue, the USSD report 2005 commented:

"According to the Paris-based International Federation of Human Rights, the justice system did not actively investigate charges of homosexuality. ... there had been no recent reports of homosexuals executed. However, the group acknowledged it was possible that a case against a homosexual could be pursued. Conversely, the London-based homosexual rights group OutRage! claimed over four thousand homosexuals had been executed in the country since the Islamic revolution in 1979." [3a] (p24)

Additionally, part of an entry on the San Francisco Bay Times website, published 12 October 2006, titled 'Sweden To Deport Gay Iranian' stated:

"The claim that 4,000 Iranian homosexuals have been executed since the revolution is put forth by the Iranian exile gay group Homan. Documentation for the claim is lacking, but Peter Tatchell of the British gay group OutRage!, which says its extensive research confirms that Iran executes gays, explained: 'Homan [based the figure] on Iranian media reports of LGBT executions and personal reports from people who had gay friends executed or arrested at private parties who were never seen again and presumed executed.

“They told me of cases where 20 or 30 or more people were arrested in a single raid and who subsequently disappeared forever. This was mostly in the early 1980s and again in the late 1980s. Tens of thousands of people were executed in the early 1980s alone for all kinds of reasons — mostly students and leftists. So the idea of 4,000 LGBTs executed does not seem wildly off the mark.” [21]

15. A number of sources have reported on the execution of Makwan Mouloudzadeh in December 2007.

The HRW article ‘The issue is torture’, dated 31 March 2008 states that:

“In November 2007 in Kermanshah, Makwan Mouloudzadeh, 20, faced the death penalty on false charges of raping several boys seven years before. His accusers retracted their claims. No evidence suggested he had committed any crime under Iranian law.

“However, European activists wildly seized on him as another ‘gay’ victim. They organised a mass petition to Ahmadinejad for mercy for ‘the young Iranian gay’. Their pleas sent an inadvertent message: Makwan was innocent of one capital crime, but Europe believed him guilty of another. On December 5, Makwan Mouloudzadeh, probably neither gay nor a rapist, went to the gallows.” [4c]

16. The FCO letter of April 2008 includes the following comments regarding the significance of the Makwan Moloudzadeh case in terms of the general risk to homosexuals:

“Makwan Moloudzadeh was convicted of the rape of eleven individuals, threatening behaviour and blackmail. His flawed trial does raise questions about due process of law in Iran and the use of the death penalty for crimes committed before the age of eighteen, but we do not think his case tells us anything new about the risks for those involved in consensual same-sex relations.” [11b]

17. In an article titled ‘Execution of child offender Makwan Moloudazdeh is a Mockery of Justice’, Amnesty International reported the case on 6 December 2007 as “Makwan Moloudzadeh, 21, was convicted of lavat-e iqabi (anal sex) for the alleged rape of three individuals, eight years ago, when he was 13.” [5]

The article continued:

“Makwan Moloudzadeh’s trial was grossly flawed. The alleged victims withdrew their accusations in the course of the trial, held in a criminal court in Kermanshah and with sessions held in Paveh, western Iran, in July 2007, and reportedly stated that they had either lied previously or had been forced to ‘confess’. In sentencing Makwan Moloudzadeh to death, the judge relied on his ‘knowledge’ that Makwan Moloudzadeh could be tried as an adult and that the alleged offence had been committed, as is allowed by Iranian law.

“According to Article 120 of the Penal Code, in cases of anal sex between men, the judge ‘can make his judgement according to his knowledge which is obtained through conventional methods.’” [5]

18. Prior to Mouloudzadeh's execution, Human Rights Watch highlighted his case in an article titled 'Revoke Death Sentence in Juvenile Case', dated 3 November 2007. HRW reported that three men complained to police in 2006 that Mouloudzadeh had raped them seven years earlier. The police then arrested him, shaved his head and paraded him around town on a donkey. During court proceedings, Mouloudzadeh claimed that all confessions he had made were false and coerced which the judge refused to accept. [4f]
19. An article on Radio Free Europe/Radio Liberty titled 'Child Offenders Face 'Imminent Execution' on Death Row', dated 15 January 2008, reports:
- "... according to recent Iranian press reports, two men convicted of homosexual rape in Fars, southern Iran, were sentenced to death by putting them in a sack and throwing it off the top of a cliff.
- "According to Iran's form of Islamic Shari'a law, homosexuality is punishable by death and the judge can choose from five methods including throwing off a height and demolishing a wall on the offender, a method whose use has not been reported in the past 30 years." [12b]
20. In a HRW article titled 'The issue is torture', dated 31 March 2008, Scott Long said "Torturing and killing gays is legal in Iran: you don't need to view the bodies to prove it." [4c]
21. An earlier HRW article, dated 8 March 2006, states:
- "Men and women suspected of homosexual conduct in Iran face the threat of execution", said Scott Long, director of Human Rights Watch's Lesbian, Gay, Bisexual, and Transgender Rights Program. 'We have documented brutal floggings imposed by courts as punishment, and torture and ill-treatment, including sexual abuse, in police custody.'...
- "... Under Articles 121–122 of the Penal Code, Tafkhiz – non-penetrative 'foreplay' between men – is punishable by 100 lashes for each partner and by death on the fourth conviction. Article 123 of the Penal Code further provides that, 'If two men who are not related by blood lie naked under the same cover without any necessity,' each one will receive 99 lashes...
- "... 'Sexual orientation and religious belief are deeply felt parts of the human personality,' said Long. 'Silencing oneself is not an acceptable price for staying alive.'" [4d]
22. And on 22 November 2005, Human Rights Watch reported:
- "Iran's execution of two men last week for homosexual conduct highlights a pattern of persecution of gay men that stands in stark violation of the rights to life and privacy...
- "... On Sunday, November 13, the semi-official Tehran daily Kayhan reported that the Iranian government publicly hung two men, Mokhtar N. (24 years old) and Ali A. (25 years old), in the Shahid Bahonar Square of the northern town of Gorgan.

“The government reportedly executed the two men for the crime of ‘lavat.’ Iran’s Shari’a-based penal code defines lavat as penetrative and non-penetrative sexual acts between men. Iranian law punishes all penetrative sexual acts between adult men with the death penalty. Non-penetrative sexual acts between men are punished with lashes until the fourth offense, when they are punished with death...

“... ‘The Iranian government’s persecution of gay men flouts international human rights standards.’

“In addition to the two executions..., there have been other cases of persecution and execution of gay men in Iran in recent years.” [4b]

The report continued:

“• On March 15, 2005, the daily newspaper Etemaad reported that the Tehran Criminal Court sentenced two men to death following the discovery of a video showing them engaged in homosexual acts. According to the paper, one of the men confessed that he had shot the video as a precaution in case his partner withdrew the financial support he had been providing in return for sex. In response to the man’s confession, his partner was summoned to the authorities and both men were sentenced to death. As the death penalty was pronounced against both men, it appears to have been based on their sexual activity.

“These abuses have created an atmosphere of terror for lesbians, gays, bisexuals and transgender people throughout Iran.” [4b]

23. An article from RFE/RL dated 1 September 2005 reported on the question of an anti-homosexual campaign:

“According to Islamic law, homosexuality is a capital crime. The execution of two Iranian males in July and current allegations that two more Iranian men are on death row because they are gay has led to allegations of an anti-homosexual campaign in Iran. But homosexuality is just part of the laundry list of charges leveled against people caught up in the Iranian justice system, and in a country with such a reprehensible human rights record, the actual charges rarely have a connection with reality... Several recent cases have garnered a great deal of attention in this regard, but they appear to be overshadowed by concern over the execution of minors. The freshest allegations are that a homosexual was executed in the city of Arak in mid-August and that two more men there are awaiting execution on similar charges.” [12a] (p1)

The article continued, reporting on the case of two males who were hanged:

“In July 2005, two males – one of them reportedly a minor – were hanged after being found guilty of raping a 13-year-old boy. However, exile sources claimed that the execution of the two, Mahmud Asgari and Ayaz Marhoni, related to their engagement in homosexual activities. Human Rights Watch, in a 27 July letter to judiciary chief Ayatollah Mahmud Hashemi-Shahrudi, expressed concern with the execution of juvenile offenders, but did not refer to any other aspect of the case.” [12a] (p1)

24. An IRIN News article dated 25 July 2005 also reported on the same case, which led to:

“... public hangings of Mahmoud Asgari, 16, and Ayaz Marhoni, 18, on 19 July in Mashad, provincial capital of Iran's northeastern Khorasan province, on charges of homosexuality.

“Asgari had been accused of raping a 13-year-old boy, though Outrage [a London-based Lesbian, Gay, Bisexual and Transexual advocacy group] said [they] believed those allegations were trumped up to undermine public sympathy for the two youths, both of whom maintained they were unaware homosexual acts were punishable by death... ‘The judiciary has trampled its own laws,’ Asgari's lawyer, Rohollah Razez Zadeh, was quoted as saying, explaining that Iranian courts were supposed to commute death sentences handed [down] to children to five years in jail, but the country's Supreme Court allowed the hangings to proceed. ... Prior to the boys' executions, the teenagers were held in prison for 14 months and severely beaten with 228 lashes. The length of their detention suggests that they committed the so-called offences more than a year earlier, when they were possibly around the age of 16. Citing Iranian human rights campaigners, Outrage claims over 4,000 lesbians and gay men have been executed since the Iranian revolution of 1979.” [13]

25. The USSD report 2005 also confirmed the executions:

“In July two teenage boys, one 16 and one 18 years of age, were publicly executed; they were charged with raping a 13-year-old boy. A number of groups outside the country alleged the two were executed for homosexuality; however, because of the lack of transparency in the court system, there was no concrete information. In November domestic conservative press reported that two men in their twenties were hanged in public for lavat (defined as sexual acts between men). The article also said they had a criminal past, including kidnapping and rape. It was not possible to judge whether these men were executed for homosexuality or other crimes.” [3a]

26. According to a BBC article of 19 July 2002, an Iranian newspaper reported that a man convicted of raping and then killing his nephew was to be thrown off a cliff in a sack. The article notes that “Under Iran's Islamic law, the homosexual act alone is punishable by death” and continues to state that “Some activists complain that the media in Iran tend to portray homosexuals who have been arrested as rapists and paedophiles”. This was given widespread publicity by the Iranian opposition in the UK, and was taken up by other wires, but we have heard no reports that the sentence was ever carried out. [10a]

27. According to the ACCORD 7th European Country of Origin Information Seminar in Berlin, 11-12 June 2001 report:

“... jurisprudence, burden of proof notwithstanding, certainly has used accusations of homosexuality. Furthermore, it does happen that homosexuality is mentioned as one of the accusations amongst other offences held against the defendant. For instance, accusations of homosexuality have been used in unfair trials, such as the case of a Sunni leader in Shiraz in 1996/97, who was clearly prosecuted for politically [sic] reasons. There have also been other political cases, although not in the recent past.” [2] (p105)

28. Expert opinion consulted by the Canadian IRB in 1998 stated that:

“Theoretically, homosexual behaviour is sharply condemned by Islam, but in practice it is present, and has been in the past, for the most part tolerantly treated and frequently occurring in countries where Islam predominates... In practice it is only public transgression of Islamic morals that is condemned and therefore Islamic law stresses the role of eye-witnesses to an offence.” [1b]

The same source stated that the police were not empowered nor did they actively pursue homosexual activity of any kind that was performed behind the ‘veil of decency’ of closed doors. [1b]

29. CIRB sources dated 1 February 1998 indicated that there were held to be many differing levels of homosexual activity within Iranian society. In rural areas, even ‘lavat’ sexual activity could be considered socially to be compensatory sexual behaviour for heterosexual sexual intercourse, and the practitioners held not to be homosexuals. [1b] The key offensive practice was sodomy, or more particularly to be sodomised, as an unnatural inversion of God’s creation, and some experts held that ‘homosexuals’ are understood in Iran to be willing passive partners. [1b]
30. According to a Canadian IRB Report of 1999, lesbian cases rarely came before the courts, as the case usually failed the test of proof of four righteous witnesses. Sources held that lesbian behaviour in public was impossible to distinguish from accepted social contact between women in Iran. [1c] The source concludes:

“Of female same-sex behaviour musahaqa almost nothing is known. Islamic law considers it sex outside marriage and therefore as adultery, with all the consequences already described. Yet because no penetration takes place, punishment is theoretically limited to one hundred lashes. In practice lesbian behaviour is regarded as relatively unimportant, because it usually takes place discreetly.” [1c]
31. The CIRB stated in a request for information dated 11 February 1998 that reports of the use of the death penalty in cases where the only offence was sodomy/homosexuality were extremely difficult to substantiate, and were held to be an unlikely sentence. More usually lashing was the punishment. [1b]

[Return to contents](#)  
[Go to list of sources](#)

## **SOCIAL PROTECTION DIVISION**

32. A Radio Free Europe/Radio Liberty article titled ‘New ‘Morality Police’ Units Generate Controversy’, dated 25 July 2002, reported the formation of sixty special patrols – Special Units or Yegan-i Vizhe - to monitor and enforce public conduct in the city. However, the article stated that due to criticism and the requirement for warrants in order to invade people’s privacy, their public presence was reduced. [12d]
33. The US State Department (USSD) Country Report on Human Rights Practices report for 2005 stated that: “A September 29 Western newspaper gave one

man's account of a systematic effort by security agents and basiji [paramilitary volunteer force] to use Internet sites to entrap homosexuals." [3a] (p24)

34. On 22 November 2005, Human Rights Watch reported that:

"• In September 2003, police arrested a group of men at a private gathering in one of their homes in Shiraz and held them in detention for several days. According to Amir, one of the men arrested, police tortured the men to obtain confessions. The judiciary charged five of the defendants with 'participation in a corrupt gathering', and fined them.

"• In June 2004, undercover police agents in Shiraz arranged meetings with men through Internet chatrooms and then arrested them. Police held Amir, a 21-year-old, in detention for a week, during which time they repeatedly tortured him. The judicial authorities in Shiraz sentenced him to 175 lashes, 100 of which were administered immediately. Following his arrest, security officials subjected Amir to regular surveillance and periodic arrests. From July 2005 until he fled the country later in the year, police threatened Amir with imminent execution." [4b]

35. Human Rights Watch, in their letter to Minister Verdonk, the Dutch Minister of Alien Affairs and Integration, Ministry of Justice, titled 'Netherlands: Threat to Return Gay and Lesbian Iranians' dated 8 March 2006, stated:

"... in late 2004, the national judiciary began establishing, under its own supervision, a new group to police moral crimes called the Setad-e Hefazat-e Ejtema'i or Social Protection Division. This organization - drawing, like many parallel groups, on unemployed ex-military draftees to fill its ranks - aims to control 'the social ills of each neighborhood and region' as well as 'deviant individuals' (according to its Articles of Association which were leaked to the Iranian press). In July 2005 a senior judicial official in Qom told reporters that 210 units of the Social Protection division employing 1,970 formally accredited volunteers had been set up throughout that city. These divisions would report serious moral offenses to the 'disciplinary forces of the judiciary' for further action to be taken. (ISNA News Agency, 10 Tir 1384/1 July 2005)." [4g]

36. Another letter from HRW to Minister Verdonk titled 'No Deportations of LGBT Iranians to Torture' dated 5 October 2006 stated:

"Societal as well as official scrutiny of 'deviant' behavior is widespread in Iran, with neighbors and even family members enlisted to support the state's moral policing." [4e]

37. The USSD 2007 Country Report on Human Rights Practices stated that:

"In 2004 the judiciary formed the Special Protection Division, a volunteer unit that monitored and reported moral crimes. The law prohibited and punished homosexuality; sodomy between consenting adults was a capital crime. The punishment of a non-Muslim homosexual was harsher if the homosexual's partner was Muslim. At a speech at Columbia University in September, the president publicly denied the existence of homosexuals in the country." [3b]

38. An 18 July 2007 news release from the International Gay and Human Rights Commission (IGLHRC) reported that:

“In May 2007, the Iranian Queer Organization (IRQO) was the first to report that the police forces in the city of Esfahan had raided a birthday party and arrested more than 80 people. The police apparently suspected that the attendees were gay and were possibly engaged in sodomy, though no proof of either has been established. Later, police unconditionally released most of those arrested, but required substantial bail for 17 of the arrestees. A judge told the families of those set free on bail that they would be tried on sodomy charges. Based on IRQO’s reports and IGLHRC’s investigation, some of the detainees were severely tortured while in custody. In the last two years, IGLHRC has worked with IRQO to find refuge for a number of gay Iranians forced to leave their country and who have applied for refugee status, many of whom faced arbitrary arrests, police brutality and even lashings for being gay”. [16]

39. An article from Human Rights Watch, titled ‘Private Homes Raided for Immorality’ and dated 28 March 2008, reported that sources in Iran have told HRW that since the arrests of May 2007, police have intensified surveillance, harassment and abuse against people connected to the arrested men or otherwise suspected of homosexual conduct. The article continues to state that the police raided another private gathering in Esfahan in December 2007 and arrested sixteen people, subjecting them to forensic examinations and releasing them four days later. The article further reports that a third private home was raided by Esfahan police on 28-29 February 2008 and over thirty men attending a party were arrested. The article states that they were jailed for almost four weeks without access to lawyers and without charge and were reportedly referred to a medical examiner to look for evidence of homosexual conduct. [4a]

40. On the subject of the Social Protection Division, Special Units and vigilantes involved in moral policing, raids and undercover activity targeting gays, the FCO stated in their letter of April 2008:

“We do not have any further specific information on the activities of these groups. Our Embassy spoke to contacts in the gay community in Tehran – some were afraid of random homophobic attacks but there was not a sense that these were carried out by representatives of state entities or the result of official state-led policies to beat, persecute or entrap gay people.

“A recent press release from Human Rights Watch (28 March) alleged that on 28-29 February, police in Esfahan raided a party at a private home and arrested 30 or more men. The men were reportedly referred to a forensic medical examiner to look for evidence that they had engaged in homosexual conduct. We have not been able to confirm this, and it appears to be local police activity. The EU is planning to raise this and ask the Iranian authorities for more information in the course of the next human rights demarche.” [11b]

**[Return to contents](#)**  
**[Go to list of sources](#)**

## Government Attitudes

41. The RFRL article, 'Is There An Anti-Homosexual Campaign?', dated 1 September 2005, stated that:

"Official Iranian sources occasionally express hostility to homosexual practices. A state radio commentary on 7 March 2005 criticized gay marriages in Western countries. Ayatollah Ebrahim Amini said in his Friday-prayer sermon in Qom that gay and lesbian marriages reflect a weakness of Western culture, state television reported on 13 July 2002. Ayatollah Ali Meshkini in his Friday-prayer sermon in Qom criticized the German Green Party for being pro-homosexual, state television reported on 29 April 2000.

"It is clear that officially and in practice, there is discrimination against homosexuals in Iran. However, systematic repression of homosexuals does not seem to be an issue. The most recent cases of capital punishment for homosexuality are connected with rapes, but the official terminology, Iran's system of retribution as a form of Islamic punishment (qesas), and the country's terrible human-rights record make it very difficult to determine the true nature of a so-called crime." [12a] (p2)

42. The UK Lesbian and Gay Immigration Group Annual report for 2007 quotes the view of the Iranian President "In Iran, we don't have homosexuals like in your country. We do not have this phenomenon. I do not know who has told you that we have it.' President Ahmadinejad, at Columbia University USA on 24th September, 2007, responding to a question regarding the treatment of homosexuals in Iran." [18]

43. On 13 November 2007, *The Times* reported the views of Mohsen Yahyavi (deputy chairman of the energy committee of Iran's parliament, or majles [19]), as:

"He 'explained that according to Islam gays and lesbianism were not permitted', the record states. 'He said 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 argued that homosexuality is against human nature and that humans are here to reproduce. Homosexuals do not reproduce.'" [7b]

44. The USSD 2007 Country Report on Human Rights Practices stated that:

"On August 6, the general prosecutor ordered to close the last major reformist daily Shargh. The ban placed on Shargh in September 2006 was lifted on May 14, but the paper was operational for less than three months before being closed again. The government reportedly closed the newspaper in response to a published interview with a writer accused of being a homosexual activist." [3b]

**[Return to contents](#)**  
**[Go to list of sources](#)**

## Societal Attitudes

45. An article on Radio Free Europe/Radio Liberty titled 'Persian Gay and Lesbian Activist Urges Tolerance', dated 17 May 2007, reported that:

"Sexual issues are considered taboo in Iran, and there is widespread misinformation about homosexuality. Many Iranians consider it a disease or sickness. For some, homosexuality among men is synonymous with pedophilia.

"As a result, gays and lesbians in Iran cannot be open about their sexual orientation. Many suppress their feelings. There are also reports of sex-change operations or hormone therapy to escape persecution. Some also face arranged or forced marriages insisted on by their families.

"Parsi [Arsham Parsi, secretary-general of Toronto-based Iranian Queer Organisation] claims a lack of knowledge and homophobic culture that rules Iranian society puts enormous pressure on homosexuals." [12c]

46. The UNHCR/ACCORD Berlin COI Information Seminar Report 2001 found that:

"Although homosexuality is never spoken about and thus a hidden issue, in practice it is not difficult to encounter homosexuals in Iran. There are special parks in Tehran, known as homosexual meeting places." [2]

The 2005 USSD report confirmed that there were known meeting places for homosexuals. [3a] (p24)

However, in an article in the New Internationalist titled 'Sexual exiles', dated March 1992, an Iranian interviewee claimed that parks are raided regularly by civilian-clothed police or 'guardists'. [20]

47. The ACCORD Report of 2001 continued:

"A different sexual orientation may, however, create problems. Still, homosexuality is practised every day, and as long as this happens behind closed doors within your own four walls, and as long as people do not intend to proselytize 'transvestitism' or homosexuality, they will most likely remain unharmed." [2]

**[Return to contents](#)**  
**[Go to list of sources](#)**

## Transgender and Transsexuals

48. An article in the Guardian dated 27 July 2005 reported that in contrast to almost everywhere else in the Muslim world, sex change operations are legal in Iran for anyone who can afford the minimum £2,000 cost and satisfy interviewers that they meet necessary psychological criteria. As a result, women who endured agonising childhood and adolescent experiences as boys, and – albeit in fewer numbers – young men who reached sexual maturity as girls, are easy to find in Tehran. Iran has even become a magnet for patients from eastern European and Arab countries seeking to change their genders. [8a] (p1)

49. According to the ACCORD Report of 2001: "... There are also a large number of transvestites walking around in North Tehran. Furthermore, sex changes are permitted in Iran and operations are frequently and openly carried out." [2]

50. Another Guardian article dated 25 September 2007 reported that:

"When Mahmoud Ahmadinejad, Iran's ever-combative president, provoked his latest controversy in New York this week by asserting that there were no homosexuals in his country, he may have been indulging in sophistry or just plain wishful thinking. While Mr Ahmadinejad may want to believe that his ideal of an Islamic society is exclusively non-gay, it is undermined by the paradox that transsexuality and sex changes are tolerated and encouraged under Iran's theocratic system.

"Iran has between 15,000 and 20,000 transsexuals, according to official statistics, although unofficial estimates put the figure at up to 150,000. Iran carries out more gender change operations than any other country in the world besides Thailand.

"Sex changes have been legal since the late Ayatollah Ruhollah Khomeini, spiritual leader of the 1979 Islamic revolution passed a fatwa authorising them nearly 25 years ago. While homosexuality is considered a sin, transsexuality is categorised as an illness subject to cure.

"The government seeks to keep its approval quiet in line with its strait-laced stance on sexuality, but state support has actually increased since Mr Ahmadinejad took office in 2005. His government has begun providing grants of £2,250 for operations and further funding for hormone therapy. It is also proposing loans of up to £2,750 to allow those undergoing surgery to start their own businesses". [8b]

51. An article on the BBC website titled 'Iran's 'diagnosed transsexuals'', dated 25 February 2008, reported:

"Sex changes have been legal in Iran since Ayatollah Khomeini, the spiritual leader of the 1979 Islamic revolution, passed a fatwa - a religious edict - authorising them for 'diagnosed transsexuals' 25 years ago.

"Today, Iran carries out more sex change operations than any other nation in the world except for Thailand.

“The government even provides up to half the cost for those needing financial assistance and a sex change is recognised on your birth certificate.

“‘Islam has a cure for people suffering from this problem. If they want to change their gender, the path is open,’ says Hojatol Islam Muhammad Mehdi Kariminia, the religious cleric responsible for gender reassignment.

“He says an operation is no more a sin than ‘changing wheat to flour to bread’.

“Yet homosexuality is still punishable by death.

“‘The discussion is fundamentally separate from a discussion regarding homosexuals. Absolutely not related. Homosexuals are doing something unnatural and against religion,’ says Kariminia. ‘It is clearly stated in our Islamic law that such behaviour is not allowed because it disrupts the social order.’”  
[10b]

The article continued:

“Like many young people in Iran, Anoosh [a 21 year old transsexual] struggled to reconcile his sexual identity with the wishes of family, community and culture. He says he was continuously harassed and threatened with arrest by Iran’s morality police before he had his sex change.

“His boyfriend was also keen for him to go ahead with the sex change because 90% of the people they passed in the street said something nasty.

“‘When he goes out in female clothes and has a female appearance it is easier for me to persuade myself that he is a girl. It makes the relationship better,’ he says.” [10b]

The article continued:

“Documentary film maker Tanaz Eshaghian spent weeks filming Anoosh, Ali and other transsexuals in Iran. She thinks that part of what is driving many of the boys to operate is the desire to avoid shame.

“‘If you are a male with female tendencies, they don’t see that as something natural or genetic. They see it as someone who is consciously acting dirty.’

“Being diagnosed as a transsexual makes it a medical condition, not a moral one.

“Once a doctor has made a diagnosis - and an operation is in the pipeline - the transsexual can get official permission from his local government official to cross-dress in public.” [10b]

**[Return to contents](#)**  
**[Go to list of sources](#)**

## Foreign and Commonwealth Office Position

52. The Foreign and Commonwealth Office's (FCO) Human Rights Report for 2007 stated that the death penalty remains on the statute books for consenting same-sex relations although the FCO have not confirmed any executions for this in 2006 and 2007 but continue to monitor the issue carefully. [11a] (p155)

53. A letter on homosexuality in Iran from the FCO, dated 15 April 2008, stated that:

"We are not aware of any individual who has been executed in Iran in recent years solely on the grounds of homosexuality. A recent press release from Human Rights Watch (dated 28 March) suggested that the last documented death sentences for consensual homosexual conduct in Iran were handed down in March 2005, but that it was not known whether they were carried out. We have not been able to confirm these cases. We are aware of concerns that homosexuals may have been charged with crimes such as rape and kidnap and then executed, but again cannot confirm that this has happened.

"Although Iran does not publish official execution figures, the impression from our Embassy is that the authorities are usually prepared to announce or confirm executions that have taken place, even for cases that are likely to attract international criticism. However, it is possible that this may have happened and gone unreported, especially in provincial areas." [11b]

54. On the subject of the Social Protection Division, Special Units and vigilantes involved in moral policing, raids and undercover activity targeting gays, the FCO stated in the same letter:

"We do not have any further specific information on the activities of these groups. Our Embassy spoke to contacts in the gay community in Tehran – some were afraid of random homophobic attacks but there was not a sense that these were carried out by representatives of state entities or the result of official state-led policies to beat, persecute or entrap gay people.

"A recent press release from Human Rights Watch (28 March) alleged that on 28-29 February, police in Esfahan raided a party at a private home and arrested 30 or more men. The men were reportedly referred to a forensic medical examiner to look for evidence that they had engaged in homosexual conduct. We have not been able to confirm this, and it appears to be local police activity. The EU is planning to raise this and ask the Iranian authorities for more information in the course of the next human rights demarche." [11b]

55. On the claim that 4,000 Iranian homosexuals have been executed since 1979, the April 2008 FCO letter continued:

"It is believed that vast numbers of people (possibly tens of thousands) were executed in the 1980s for a range of political and moral 'crimes' often with little or no respect for due process of law. This is likely to have included executions for controversial offences such as homosexuality and apostasy. We are not able to put a figure on how many individuals might have been executed specifically for homosexuality, but documentary evidence and our Embassy's discussions with human rights campaigners and members of the Iranian gay community suggest that such executions would have been carried out in the

first 10-15 years after the 1979 revolution. We are not aware of executions solely on the grounds of homosexuality in recent years.” [11b]

56. On the significance of the Makwan Moloudzadeh case in terms of the general risk to homosexuals, the FCO’s position was:

“Makwan Moloudzadeh was convicted of the rape of eleven individuals, threatening behaviour and blackmail. His flawed trial does raise questions about due process of law in Iran and the use of the death penalty for crimes committed before the age of eighteen, but we do not think his case tells us anything new about the risks for those involved in consensual same-sex relations.” [11b]

57. The FCO’s position on the treatment of homosexuals at the current time remains as:

- “- We have concerns about the treatment of homosexuals in Iran.
- Homosexual activities are illegal and can carry the death penalty.
- We are not aware of any individual that has been executed in Iran in recent years solely on the grounds of homosexuality.
- We are aware of concerns that homosexuals have been charged with crimes such as rape and kidnap and then executed.
- Although homosexuality is illegal in Iran and homosexuals do experience discrimination, we do not believe that homosexuals are systematically persecuted.
- We continue to monitor the situation.

“It is worth noting that it can be difficult to obtain information on human rights concerns and specific cases in Iran, especially on an issue as sensitive as homosexuality. Our Embassy can only make a limited judgement of the situation based upon publicly available information such as official public statements and media reporting and informal contacts with the gay community in Tehran. This by no means provides us with a full picture of the overall treatment of homosexuals in Iran, and as a result our assessment is necessarily limited.” [11b]

**[Return to contents](#)**  
**[Go to list of sources](#)**

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[Return to contents](#)